

MEETING
STATE OF CALIFORNIA
THE RESOURCES AGENCY
CENTRAL VALLEY FLOOD PROTECTION BOARD
OPEN SESSION

RESOURCES BUILDING
1416 NINTH STREET
AUDITORIUM
SACRAMENTO, CALIFORNIA

FRIDAY, JANUARY 18, 2008

8:32 A.M.

JAMES F. PETERS, CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 10063

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Mr. Benjamin Carter, President

Mr. Butch Hodgkins, Vice President

Ms. Lady Bug Doherty, Secretary

Mr. John Brown

Ms. Rose Marie Burroughs

Ms. Teri Rie

Senator Darrell Steinberg, also represented by
Mr. Dennis O'Connor

Ms. Emma Suarez

Assembly Member Lois Wolk, also represented by
Mr. Alf Brandt

STAFF

Mr. Jay Punia, Executive Officer

Mr. Eric Butler, Senior Engineer

Ms. Virginia Cahill, Legal Counsel

Mr. Dan Fua, Supervising Engineer

Ms. Jill Phinney, Support Staff

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APPEARANCES CONTINUED

DEPARTMENT OF WATER RESOURCES

Mr. Tim Kerr

Mr. Ricardo Pineda

Mr. George Qualley

Mr. Ward Tabor

Mr. Dave Wheeldon

ALSO PRESENT

Mr. John Bassett, Sacramento Area Flood Control
Association

Mr. Paul Brunner, Three Rivers Levee Improvement Authority

Mr. Stein Buer, Sacramento Area Flood Control Association

Colonel Thomas Chapman, United States Army Corps of
Engineers

Mr. Joe Countryman, MBK Engineers

Mr. Paul Devereux, Reclamation District 1000

Mr. Thomas Foley, Concerned Citizens for Responsible
Government

Mr. Leslie Harper

Mr. Roger Henderson, United States Army Corps of Engineers

Mr. Reggie Hill, Lower San Joaquin Levee District

Mr. Gibson Howell

Mr. J.F. Schneider

Mr. Scott Shapior

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APPEARANCES CONTINUED

ALSO PRESENT

Ms. Judy Soutiere, United States Army Corps of Engineers

Mr. Paul Thayer

Mr. Patrick Tully

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1 PROCEEDINGS

2 PRESIDENT CARTER: Good morning, ladies and
3 gentlemen. Welcome to the first ever Central Valley Flood
4 Protection Board meeting. Happy New Year to everyone.
5 Thank you for coming.

6 Let's see, we'll start out first -- let's call
7 the roll.

8 Mr. Punia, could you do that for us, please.

9 GENERAL MANAGER PUNIA: Good morning. Jay Punia,
10 Executive Officer of the Central Valley Flood Protection
11 Board.

12 For the record, except Board Member Teri Rie, the
13 rest of the Board members are present.

14 PRESIDENT CARTER: Very good. Thank you.

15 So at this point, the Board will enter into
16 closed session, Item 2 on our agenda for today.

17 So if -- well, it looks like Jill has gone to
18 tell people we're in closed session.

19 (Thereupon the Board recessed into
20 closed session at 8:35 a.m.)

21 (Thereupon the Board reconvened
22 open session at 9:46 a.m.)

23 PRESIDENT CARTER: Good morning, ladies and
24 gentlemen. Welcome to the first ever Central Valley Flood
25 Protection Board meeting.

1 Please let the record reflect that the Board did
2 start its meeting this morning at 8:30. We had a closed
3 session to start with where we discussed litigation as
4 agendized.

5 Also discussed the annual performance of the
6 General Manager, which we are continuing that discussion.
7 And that will continue to be on the agenda in subsequent
8 meetings.

9 And also to consider the appointment of a new
10 chief engineer. And I'm very pleased to announce that the
11 Board did make a decision on the chief engineer. And we
12 are happy to welcome Mr. Gary Hester as the Chief Engineer
13 of the Central Valley Flood Protection Board.

14 Gary is out in the audience there.

15 (Applause.)

16 PRESIDENT CARTER: We're very, very fortunate to
17 have Gary on board. He brings a wealth of experience in
18 flood management from DWR, as a consulting engineer, and
19 also as a general manager of a flood control district. So
20 he represents perspectives from both the public and
21 private sectors. So we are very much looking forward to
22 having Gary join us hopefully early in February.

23 So with that, I also want to welcome on board two
24 new members of the Board. We have Senator Steinberg and
25 Assemblywoman Wolk. And I have a couple things for you.

1 We have not completed your full orientation packages yet.
2 But we have here just some preliminary background.
3 There's a copy of Battling the Inland Sea by Robert Kelly,
4 which you probably already have read. But --

5 BOARD MEMBER STEINBERG: Thank you.

6 BOARD MEMBER WOLK: Thank you.

7 PRESIDENT CARTER: -- it gives some great
8 background about the development of the state's flood
9 control system, some contact information, and some general
10 information about The Rec Board.

11 BOARD MEMBER STEINBERG: Thank you so much, Mr.
12 Chairman.

13 BOARD MEMBER WOLK: Thank you.

14 PRESIDENT CARTER: There's more to come. But
15 we'll prepare that AND hopefully get it to you soon.

16 BOARD MEMBER WOLK: Thank you.

17 PRESIDENT CARTER: So welcome aboard.

18 BOARD MEMBER STEINBERG: Thank you.

19 Should we read the first chapter out loud or --

20 (Laughter.)

21 BOARD MEMBER SUAREZ: The introduction was done
22 by David Kennedy.

23 PRESIDENT CARTER: Good side reading.

24 So we are on to Item 3, Approval of the Minutes.

25 My understanding is we do not have minutes

1 prepared yet for October 18, 19. However, we do have
2 minutes for November 16. Is that true? Is that correct?

3 SECRETARY DOHERTY: Yes.

4 PRESIDENT CARTER: Okay. So the Board will
5 entertain a motion to approve the minutes for November
6 16th, 2007.

7 BOARD MEMBER RIE: So moved.

8 PRESIDENT CARTER: We have a motion.

9 Is there a second?

10 BOARD MEMBER BURROUGHS: And we have a second.

11 PRESIDENT CARTER: Any discussion?

12 All those in favor indicate by saying aye.

13 (Ayes.)

14 PRESIDENT CARTER: And opposed?

15 Motion carries.

16 I'm sorry. Senator Steinberg or Member Wolk,
17 would you like to say anything to the Board or some
18 introductory remarks?

19 BOARD MEMBER STEINBERG: Thank you, Mr. Chairman,
20 if you would wouldn't mind, just for a moment.

21 I just want to say how pleased I am -- as a
22 member of the State Senate and as the Senator representing
23 much of Sacramento, how pleased I am not only to be here
24 but how pleased I am with how momentous this occasion is
25 today: The first real step in implementing the flood

1 management reforms provided through the flood package that
2 the Legislature passed this year, led by my friend and
3 colleague, Assembly Member Lois Wolk, Senator Mike
4 Machado, Assembly Member Jones, and Assembly Member Laird,
5 with their package of bills. I was pleased to be involved
6 in at least helping a little bit with each of those. And
7 now we're here.

8 And my principal interest from the Senate is to
9 ensure that the reforms provided through Senate Bill 17
10 and the other bills work and work for the people of the
11 Central Valley. As Chair of the Senate Natural Resources
12 and Water Committee, if there is need for a change in the
13 law, I'll work with you to ensure that the law gets fixed.
14 As a member of the Senate Budget Subcommittee, I will work
15 to see that this Board has the funding it needs to be able
16 to do its job.

17 You may have heard, we have a little budget
18 crisis in California. But this is important work.

19 And maybe most significantly, as the Senator
20 representing what is perhaps the most at risk for
21 flooding, if there's anything we can do to expedite the
22 work to ensure public safety, I want to be of help there
23 as well.

24 You all know Dennis O'Connor, who is the chief
25 water consultant for the State Senate. Dennis will have

1 full portfolio to represent me when I am not able to be
2 here because of other duties.

3 One issue that I just would like to raise with
4 the Board, if that is all right, and, that is, on the
5 issues of closed session. Even though Assembly Member
6 Wolk and I are ex officio members of this Board, I think
7 it is appropriate that when it comes to issues that don't
8 involve any perception of conflict of interests with the
9 Legislature, personnel matters, for example, that either
10 Assembly Member Wolk and I and/or our respective staffs
11 are part of the closed sessions so that we can be a full
12 part of the deliberative process of this Board. I think
13 we can be of most assistance if we're as much on the
14 inside, if you will, as possible. So I just wanted to put
15 that out there.

16 LEGAL COUNSEL CAHILL: Senator Steinberg, I'd
17 like to address that.

18 It's been the consistent advice from the
19 California Attorney General's Office that legislative
20 members do not attend closed sessions. And what I'll do
21 in respect to your request is do a written memo that
22 outlines the reasons.

23 BOARD MEMBER STEINBERG: Okay. If you could just
24 differentiate again the various items that could come up
25 in closed session, because I understand that there may be

1 some instances in which it would be inappropriate, but
2 there might be others where it isn't. And --

3 LEGAL COUNSEL CAHILL: There is the risk that you
4 would lose the closed session privilege or ability under
5 the Bagley-Keene Act if you had people in the
6 session -- we'll do the memo. It's basically based on the
7 fact that you can't simultaneously hold a legislative and
8 an executive office if it's not based on attorney-client
9 privilege.

10 BOARD MEMBER STEINBERG: All right. Well, I just
11 wanted to raise the issue. And we'll look forward to the
12 memo and further discussion.

13 Thank you so much. And, again, happy to be part
14 of it and looking forward to supporting you.

15 PRESIDENT CARTER: Thank you very much. Welcome
16 aboard.

17 BOARD MEMBER STEINBERG: Thank you.

18 BOARD MEMBER WOLK: Thank you, Mr. Chair,
19 members.

20 Is this on?

21 Oh, got it. I thought I had pushed it.

22 I too second Senator Steinberg's comments. It's
23 been a fairly active session. Certainly for the past
24 three years we've all been working very hard and
25 diligently on a comprehensive group -- a legislative

1 package. And Senator Steinberg was very modest about his
2 role, but in fact it was critical and in pulling the very
3 disparate pieces together and marching us all forward.

4 As Chair of Water, Parks, and Wildlife, this is
5 of course a critical -- your role, our role is really
6 absolutely essential, significant, and critical to public
7 safety in our state and to this region.

8 We know that there is -- this area is one of
9 lowest levels of flood protection. We know from Katrina
10 the effects of poor policies and poor land-use decisions.

11 We have given this Board in the Legislature, and
12 with the Governor's signature, increased and increasing
13 responsibilities. And I look forward to seeing willing
14 step into the breach. It is important that you assert
15 your role in flood protection for this state. And I agree
16 with Senator Steinberg from the Assembly's position, that
17 we'll do whatever we can to make certain that you have the
18 resources necessary to do that. Nobody else will do that.
19 We've given you that responsibility, will increase over
20 the years, not decrease, and we look forward to helping
21 you and being partners in that effort.

22 I also want to introduce my staff. Alf is the
23 chief consultant for water issues -- Alf Brandt. And when
24 I am not here, he certainly has my portfolio to speak for
25 me and probably better than I since he is an attorney and

1 has worked in this field for many, many years.

2 So I want to make sure that you all -- Alf.

3 And thank you. On with the business of the Flood
4 Protection Board.

5 PRESIDENT CARTER: Thank you very much. We do
6 look forward to working with you. We welcome you as
7 partners and look forward to your help.

8 Admittedly, resources have been a challenge for
9 us, and so in that area we particularly look forward to
10 your help.

11 In my haste to try and get back on schedule, I
12 also forget to introduce -- we do have a -- I introduced
13 Virginia Cahill last month, but I want to reintroduce her.

14 Virginia Cahill is the Legal Counsel for the
15 Board. She comes to us as a deputy attorney general from
16 the Attorney General's Office; and over the last seven
17 weeks has provided us invaluable advice and helping us
18 work through our transition issues. And we look forward
19 to working with her at least through the end of June.

20 So in any case, Virginia, thank you and welcome
21 aboard as well.

22 LEGAL COUNSEL CAHILL: Thank you.

23 PRESIDENT CARTER: Okay. With that, we're on to
24 Item 4, Approval of the Agenda.

25 Are there any suggested changes to the agenda as

1 published for today?

2 BOARD MEMBER BURROUGHS: I move that we approve
3 the agenda as published.

4 SECRETARY DOHERTY: Second.

5 PRESIDENT CARTER: We have a motion and a second
6 to approve the agenda as published.

7 Any discussion?

8 All those in favor indicate by saying aye.

9 (Ayes.)

10 PRESIDENT CARTER: And opposed?

11 Motion carries.

12 Very good. On to Item 5.

13 Item 5 is Public Comment. This is a time that we
14 allocate so that members of the public can address the
15 Board on items that are not on the agenda for today. The
16 members of public will be invited to comment on items that
17 are on the agenda today as those items come before the
18 Board. But if there are items that are not agendized that
19 the public wishes to address the Board, they are welcome
20 to do that.

21 What we do ask is that you please fill out these
22 3 by 5 cards. They're available from Jill Phinney at the
23 front and also at the table at the entrance to the
24 auditorium. And these are just so that we know to
25 recognize you and know which item you -- under which item

1 you would like to address the Board.

2 So at this point I do have two cards.

3 Mr. Reggie Hill.

4 MR. HILL: Good morning, President Carter,
5 members of the Board and Mr. Punia. My name is Reggie
6 Hill. I'm the manager of the Lower San Joaquin Levee
7 District.

8 And I would just like to say that I like the
9 venture that this Board is taking as far as being a
10 Central Valley Flood Protection Board. I represent a lot
11 of interests on the San Joaquin River. We have levee
12 repair issues that we're dealing with that need serious
13 attention, and we're also in the realm of doing river
14 restoration on the San Joaquin.

15 So, like I said, it's the Central Valley Board.
16 And you've come down to our area before, and it's an open
17 invitation. We'd like to see you there again.

18 And that's all I'd like to say. And I appreciate
19 the opportunity.

20 Thank you.

21 PRESIDENT CARTER: Thank you very much, Mr. Hill.

22 Mr. Buer.

23 MR. BUER: Good morning, President Carter and
24 members of the Board. This is a quick update following up
25 on some comments I made before the Board on the 21st of

1 December with regard to AB 930, which has caused the
2 significant anxiety in the rural areas, concerns that
3 SAFCA could essentially take advantage of the rural areas
4 to their detriment.

5 I'd like to -- I've provided you all with copies
6 of board action from SAFCA yesterday, in which our board
7 unanimously approved a resolution authorizing us to
8 participate in a cooperative project to acquire an
9 interest in an ags ranch in Elk Horn. We were invited to
10 participate by the Sacramento Valley Conservancy and the
11 Yolo Land Trust and Yolo County; and the documentation
12 attached indicates that invitation. Aimee Rutledge was
13 here this morning hoping to address you as well to
14 indicate the Conservancy's support for our participation.

15 What's important about this package is that in
16 addition to proposing to fund the acquisition of
17 agricultural conservation easements, SAFCA is also
18 proposing and committing to paying for Williamson Act tax
19 payments whenever the state fails to do so for these
20 properties, thereby guaranteeing a stream of income to the
21 county for this property.

22 Secondly, we will fund flood insurance payments
23 to fund the incremental difference between the cost of
24 insurance on the property under the AE zone and what it
25 would be for preferred risk in an urban area.

1 And, finally, we will guarantee the payments to
2 the reclamation district that maintains the levees in
3 perpetuity.

4 So our goal here is to achieve mutual benefit for
5 both the urban and rural areas as we seek to move forward
6 with a program that includes both wise floodplain
7 management and structural improvements to our urban
8 levees.

9 That's all I have, unless there are questions.

10 PRESIDENT CARTER: Are there any questions for
11 Mr. Buer?

12 VICE-PRESIDENT HODGKINS: Just a comment. I
13 think it's significant that local agencies -- local
14 agencies on opposite sides of the river are coming
15 together here and moving forward in a partnership. It
16 says a lot for Stein and SAFCA and Yolo County recognizing
17 that their vital interests are in working together, not
18 separately. So it's really nice to see.

19 PRESIDENT CARTER: Thank you very much.

20 MR. BUER: Thank you.

21 PRESIDENT CARTER: Okay. I was informed by
22 Colonel Chapman that he will be joining us at around
23 10:30. He did want to speak under public comment.

24 So what I would propose we do is -- and he
25 specifically wanted to address the Corps' announcement

1 earlier this week with regard to the Natomas levees and
2 flood protection for that area.

3 So what I propose, if it's acceptable to the
4 Board, is that we continue this item. And when he -- he
5 is returning from Utah. When he arrives, then we will
6 reopen Item 5, Public Comment, and allow the Corps to
7 address that.

8 Is that acceptable to everyone?

9 Okay. Very good.

10 So we will go ahead and table Item 5 and move on
11 to Item 6, which is: Transition to the Central Valley
12 Flood Protection Board and New Rules Regarding Evidentiary
13 Hearing, Ex Parte Communications and Other Questions.

14 As I mentioned earlier, Ginny has been working
15 very, very diligently to help us internalize the
16 implications of the new legislation with regard to our
17 operations and policies. And she has some information for
18 us that will give us her guidance in terms of how we move
19 forward without delaying some of these important projects
20 that we have before us.

21 So with that, I'll turn it over to Ginny.

22 LEGAL COUNSEL CAHILL: And we should have a
23 PowerPoint.

24 SENIOR ENGINEER BUTLER: Yeah, it's on -- you're
25 not going to run it. You want one of us to run it?

1 LEGAL COUNSEL CAHILL: Yeah, unless you want to
2 give me a remote that would work. But it's not up yet.

3 (Thereupon an overhead presentation was
4 Presented as follows.)

5 LEGAL COUNSEL CAHILL: Well, I'm really daring.
6 I'm going to wade in here and interpret what I think
7 legislative intent was in the presence of the legislators.
8 So we'll see --

9 BOARD MEMBER STEINBERG: You know better than we
10 do.

11 LEGAL COUNSEL CAHILL: We'll see if we have it
12 right.

13 When I first came aboard, there were just
14 immediately a huge number of major issues with regard to
15 the Board and how it was going to proceed.

16 And I'm going to wait till we get the PowerPoint
17 up.

18 So today I'm going to list four transition
19 issues, which would be the next slide. One of them we've
20 already somewhat resolved. Two of them we're going to
21 talk about today. And the fourth we're going to put off
22 for another meeting.

23 Only we're way too early.

24 The first transition issue was the relationship
25 of the Board -- there we go --

1 --o0o--

2 LEGAL COUNSEL CAHILL: -- the Central Valley
3 Flood Protection Board to the Department of Water
4 Resources. The legislation recites the Board will act
5 independently.

6 Earlier versions of the legislation had actually
7 said it would be a separate state agency. Those were
8 ultimately removed from the bills.

9 And so administratively this Board is still
10 housed within the Department of Water Resources. But the
11 Board of course does act independently. DWR does not have
12 the power to overrule this Board's decisions. And as the
13 old Board members know, in December you agreed to an
14 interim memorandum of agreement with the Department of
15 Water Resources so that they could continue to offer
16 administrative support during the transition period. And
17 we will hopefully in the next two months come up with a
18 more permanent memorandum of agreement to sort of lay out
19 the staffing, the support, those issues, with the
20 Department of Water Resources.

21 The second issue that we will talk about today is
22 the new requirement for evidentiary hearings. The third
23 issue is limitation on ex parte contacts and what that
24 means for the Board members and people that might want to
25 contact them.

1 And a fourth issue that we haven't grappled with
2 yet is Board member terms and replacement. There's one
3 provision that says there will be staggered terms, half
4 the Board two years, half the Board four years. And
5 there's another term that says the Board will be replaced
6 in an order to be drawn by lot. And we haven't quite
7 grappled with how those two provisions work together. But
8 perhaps by next meeting there'd be a recommendation that
9 you could follow up on or talk about.

10 So I'm needing the next slide.

11 --o0o--

12 LEGAL COUNSEL CAHILL: So we're going to talk now
13 mostly about evidentiary hearings. This is right out of
14 AB 5. It added Water Code Section 8610.5. And it says,
15 "The Board shall adopt regulations relating to evidentiary
16 hearings pursuant to Chapter 4.5 of the Administrative
17 Procedure Act."

18 What you should probably know here is that
19 Chapter 4.5 of the Administrative Procedure Act has a
20 relative -- has a somewhat less formal hearing procedure.
21 Chapter 5 of the APA is the one that requires sworn
22 testimony, cross-examination, those very technical
23 requirements.

24 Chapter 4.5 has the requirements that fairness
25 requires: The applicant can present, opponents get to

1 present, people can rebut. But it isn't as formal as
2 Chapter 5.

3 The next provision says, "The Board shall hold an
4 evidentiary hearing for any matter that requires the
5 issuance of a permit." Until now the Board practice has
6 been that uncontroversial, uncontested minor permits were
7 just granted by staff. This would appear to require an
8 evidentiary hearing for any permit, even those minor ones.
9 And so it may be that this is something that in subsequent
10 legislation we can clean up. In the interim we probably
11 will bring every permit to the Board. When they're not
12 opposed, the staff's report could be the evidence that the
13 Board could use.

14 If I could have the next slide, please.

15 --o0o--

16 LEGAL COUNSEL CAHILL: The Water Board -- the
17 Water Code Section also says the Board is not required to
18 hold an evidentiary hearing before making a decision
19 related to general flood protection policy or planning.

20 So we're in the situation where you need
21 evidentiary hearings on permit matters.

22 --o0o--

23 LEGAL COUNSEL CAHILL: So at the moment you
24 already have -- well, and this is another new requirement.
25 In your evidentiary hearing you are to consider certain

1 types of evidence, including all the evidence admitted
2 into the record from any party -- which probably isn't a
3 change from your past practice -- the best available
4 science relating to the issues, the effects of the
5 proposed decision on the entire State Plan of Flood
6 Control, and the effects of reasonably projected future
7 events such as climate change.

8 So if I could have the next slide.

9 --o0o--

10 LEGAL COUNSEL CAHILL: So the legislation directs
11 you to adopt regulations. So we put this on as an action
12 item. And at the end of this presentation you might want
13 to do a motion to direct your staff to start revising your
14 regulations.

15 In the interim --

16 BOARD MEMBER SUAREZ: Excuse me. Can I interrupt
17 you.

18 Just to clarify, because we do currently have in
19 our regulations evidentiary hearing regs.

20 LEGAL COUNSEL CAHILL: You do. In fact, it's
21 right up there on the screen.

22 What I'm proposing -- what we'll need to do
23 though is to amend it because it doesn't contain all of
24 the items out of Chapter 4.5 and the new legislation,
25 those four additional areas. So what we would propose is

1 that while you are in the process of amending your current
2 regulations, you operate under a combination of these
3 three things:

4 Your existing hearing regulations. So, for
5 example, already in the California Code of Regulations,
6 Title 23, Part 13, you have a hearing regulation already.

7 We would add the requirements of Chapter 4.5 of
8 the Administrative Procedure Act. There are some
9 technical things like informing applicants and parties
10 that they have the right to language assistance that
11 aren't in your current regulations. Chapter 4.5 makes it
12 clear you need to do a written decision. So we will add
13 in those elements from Chapter 4.5 and apply them during
14 the interim period.

15 And in every permit decision now you will also
16 have to consider those four new factors out of the
17 legislation that are in Water Code Section 8610.5.

18 So if we can go on.

19 --o0o--

20 LEGAL COUNSEL CAHILL: The next issue is ex parte
21 contacts. And I've sort of put in color part of the
22 language. Water Code Section 8578 defines an ex parte
23 contact to be any oral or written communication concerning
24 matters other than purely procedural matters under the
25 Board's jurisdiction that are subject to a vote. And I'm

1 going to come back to this, because those are the matters
2 to which these ex parte rules are going to apply.

3 --o0o--

4 LEGAL COUNSEL CAHILL: Now, the key language on
5 ex parte is "No Board member nor any person interested in
6 influencing the Board" -- I'm sort of summarizing here --
7 "shall conduct an ex parte communication." In other
8 words, no member shall do it. It reads like a
9 prohibition.

10 If you would go to the next slide.

11 --o0o--

12 LEGAL COUNSEL CAHILL: Then it says, "If an ex
13 parte communication occurs, the Board member shall notify
14 the interested party that full disclosure will be made,
15 and communications cease to be ex parte when disclosed in
16 the Board's official record."

17 Did you --

18 BOARD MEMBER STEINBERG: If I may, yes.

19 LEGAL COUNSEL CAHILL: Yes.

20 BOARD MEMBER STEINBERG: It's very important I
21 think for Assembly Member Wolk and I to understand the
22 applicability of these rules to us as legislators, because
23 we are obviously often lobbied on legislative matters
24 related to water and flood control. And yet we have this
25 duty now as well where these rules properly apply. So

1 your guidance in terms of where the line is for us I think
2 would be very, very important and helpful.

3 LEGAL COUNSEL CAHILL: Okay. You know, I would
4 like to be able to give that some thought and get back to
5 you at a later time.

6 BOARD MEMBER STEINBERG: Sure.

7 LEGAL COUNSEL CAHILL: To tell the truth, that
8 had occurred to us, but we hadn't reached a conclusion
9 yet.

10 BOARD MEMBER STEINBERG: Well, we don't have a
11 vote, right?

12 LEGAL COUNSEL CAHILL: You don't have a vote.

13 BOARD MEMBER STEINBERG: But on the other hand we
14 have great influence.

15 (Laughter.)

16 LEGAL COUNSEL CAHILL: Well, if you're able to
17 come and participate --

18 BOARD MEMBER WOLK: We're legislating in this
19 area.

20 BOARD MEMBER STEINBERG: Yeah, and then we're
21 legislating in the area, you know. So --

22 (Laughter.)

23 LEGAL COUNSEL CAHILL: You know, there is some
24 cleanup legislation I think that's being proposed. You
25 all might be thinking about what problems are surfacing as

1 we go along that you might want to put in a later bill.

2 BOARD MEMBER STEINBERG: But in the meantime --

3 LEGAL COUNSEL CAHILL: -- in the meantime we'll
4 look at that and come up with an opinion.

5 BOARD MEMBER STEINBERG: Thank you.

6 LEGAL COUNSEL CAHILL: Okay. So there are three
7 steps to this. It says the Board members and the people
8 that want to influence them shall not have ex parte. If
9 it occurs, you disclose. And if you disclose, it's not ex
10 parte anymore.

11 So if I could have the next slide.

12 --o0o--

13 LEGAL COUNSEL CAHILL: The real issue out of that
14 is: Do these sections prohibit ex parte contacts? And if
15 one inadvertently happens -- a letter comes to one Board
16 member and, therefore, that's happened, they disclose it,
17 they send the letter to everyone, put it in the Board's
18 file? Or is it like some agencies do where you can have
19 these contacts so long as you disclose them?

20 So, for example, Coastal Commission has ex parte
21 comments, and then at their meeting when the item comes up
22 they all disclose them.

23 We have concluded that your particular language
24 is a prohibition. The Coastal Commission language says,
25 "You shall not have ex parte contacts unless you disclose

1 them." You don't have the "unless". You have the ex
2 parte contacts, you shall not do it.

3 And the legislative history from some of the
4 language and some of the bills:

5 SB 17, some of the legislative bill report says
6 this imposes a ban on ex parte communications and imposes
7 disclosure requirements for violations of the ex parte
8 rules, which certainly doesn't sound like you're saying
9 it's fine as long as you're planning to disclose it.

10 The report for AB 5 says it prohibits ex parte
11 communications and provides for disclosure if such
12 communications occur. So it prohibits them.

13 So I think the better rule here is that in those
14 matters on which it applies, you do not have them; if they
15 happen inadvertently, you disclose them.

16 So what are the matters to which they apply?

17 This seems at first to be extraordinarily broad
18 language. What are matters under the Board's jurisdiction
19 that are subject to the vote? Originally we thought this
20 is everything that comes before you, matters under your
21 jurisdiction. And that would have been extraordinarily
22 broad. That would have included adjudicatory matters, but
23 also legislative matters, policy matters, everything. And
24 typically ex parte contacts are only an issue in
25 adjudicatory -- quasi-adjudicatory types of proceedings.

1 So if you'd give me the next slide.

2 --o0o--

3 LEGAL COUNSEL CAHILL: What we have up here is an
4 example from the Coastal Commission's law. It's in the
5 Public Resources Code. And it has that same language, a
6 matter within the Commission's jurisdiction. And it gives
7 the definition: "Any permit action, federal consistency
8 review appeal," and it lists a number of other items. And
9 then it says, "or any other quasi-judicial matter
10 requiring Commission action for which an application has
11 been submitted to the Commission."

12 Now, your language -- that language isn't
13 specifically in your bill. But I think it's a reasonable
14 interpretation for you too of matters within your
15 jurisdiction. Which would mean then that the ex parte
16 rules apply when you have some quasi-judicial matter. And
17 that would include all of your permit activities, it would
18 include any enforcement activities you might want to do
19 for which an application has been filed or an enforcement
20 action commenced.

21 So I think that that's where we are. Once you
22 have one of those activities, you have an application for
23 a permit, then you don't talk to the permittee, you don't
24 talk to the opponents. Those communications come in in
25 the open meetings of the Board.

1 We will work with you on when exactly it
2 attaches. Some of you are in task forces that some permit
3 applicants may be in the task force but the task force has
4 a different, more general focus. I don't want to go
5 through all the possibilities today. But if Board members
6 have particular groups that they participate in and
7 they're worried about how ex parte applies in those cases,
8 you can contact us and we will try to work with you.

9 And already Senator Steinberg has identified one
10 of those areas, you know, how does this apply to our
11 legislative members. And so we'll take a look at that.

12 And I don't know if there's another slide or if
13 that's it.

14 I think that's it. We didn't try for this
15 meeting to figure out how the Board terms are going to
16 work. And I think we can do that probably at the next
17 meeting.

18 And so I'm willing to take any questions if the
19 Board members have any questions.

20 PRESIDENT CARTER: Go ahead, Mr. Hodgkins.

21 VICE-PRESIDENT HODGKINS: Are you saying that you
22 would be comfortable defending us if we used that as a
23 guideline in our own ex parte communications?

24 LEGAL COUNSEL CAHILL: Yes.

25 VICE-PRESIDENT HODGKINS: Yes. Okay.

1 PRESIDENT CARTER: Any other questions for Ms.
2 Cahill.

3 Ms. Rie.

4 BOARD MEMBER RIE: How do we handle Emails from
5 applicants on a matter that coming up for a Board
6 decision? Do we forward those to all the other members of
7 the Board?

8 LEGAL COUNSEL CAHILL: I think you disclose it to
9 the General Manager. And you inform that person that you
10 will be disclosing it. And then it becomes part of the
11 Board's record. I think if -- I would prefer that you not
12 send it to all the other Board members. I think you
13 should send it to the General Manager and disclose that
14 you've gotten it and read it if you've read it. And then
15 I would reply to that person and say, "This is before the
16 Board. This would be" -- "I have to disclose this as an
17 ex parte contact, and I would encourage you not to send me
18 Emails on this again."

19 BOARD MEMBER RIE: And then would the General
20 Manager distribute it to all the Board members?

21 LEGAL COUNSEL CAHILL: He would probably
22 distribute it to everyone and make it available to the
23 public as well.

24 BOARD MEMBER RIE: Okay.

25 BOARD MEMBER BROWN: Mr. Chairman?

1 LEGAL COUNSEL CAHILL: Or at least put it in the
2 file. At least put it in the file for that project.

3 PRESIDENT CARTER: Mr. Brown.

4 BOARD MEMBER BROWN: If a Board member
5 inadvertently makes contact on an issue, is there an
6 option also just to excuse yourself from the vote?

7 LEGAL COUNSEL CAHILL: This requires disclosure.
8 It says if it occurs, you disclose it.

9 BOARD MEMBER BROWN: Okay. With disclosure, then
10 you could vote on it?

11 LEGAL COUNSEL CAHILL: Yes, probably. I mean
12 I -- unless there was some unfairness here. But if it's
13 disclosed, there's nothing in your statute that requires
14 you -- because there will be some inadvertent nonharmful
15 contacts that happen. And they don't require you to
16 recuse yourself, unless -- you know, if it rises to the
17 fact that you spent two hours with one side and it would
18 bias your decision, then I think it would be prudent to
19 not vote. But if, you know, you got an Email and you read
20 it before you quite realized and you disclosed it, the
21 statute says it ceases to be ex parte once you've
22 disclosed it. But we're not encouraging you to rely on
23 that in the first instance. We're relying on you not to
24 do it. But if it happens, you disclose it.

25 BOARD MEMBER BROWN: But an option exists; and if

1 you're uncomfortable with the contact, you could just
2 recuse yourself from voting on it?

3 LEGAL COUNSEL CAHILL: Yes. But you would still
4 have to disclose it.

5 BOARD MEMBER BROWN: Oh, okay.

6 LEGAL COUNSEL CAHILL: Recusing yourself isn't a
7 substitute for disclosing.

8 BOARD MEMBER BROWN: No. Okay.

9 LEGAL COUNSEL CAHILL: It could be an additional
10 measure.

11 PRESIDENT CARTER: Assemblywoman Wolk.

12 BOARD MEMBER WOLK: Mr. Carter, I'd like to ask
13 Alf Brandt if he would make a few comments about the
14 legislation.

15 PRESIDENT CARTER: Okay. Mr. Brandt. Welcome.

16 MR. BRANDT: Thank you.

17 I was actually the one who wrote some of this
18 language that's been discussed today in June of 2006. So
19 I just thought I'd share a couple of comments of why we
20 did what we did. And some of this is in my analysis of
21 June 2006 that was the forerunner -- SB 1796. So it was
22 the forerunner of SB 17.

23 First of all, on the DWR relationship, that was
24 our intent, was -- it was a compromise between two
25 parties. And so you remain as part of DWR but you act

1 independently.

2 On the word "permit," that was a word I chose
3 deliberately. It was intended to allow you to have some
4 flexibility or some ability in your regulations. And I
5 did choose 4.5 in your regulations to define what a permit
6 is. But it was supposed to communicate entitlements to
7 property of some sort. So there may be something that you
8 define in your regulations as to what is not a permit and
9 something else. But it was the key -- not policy, and I
10 specify, not policy things, not plans, not those kinds of
11 things. So that may be something you may want to do. Or
12 we may consider it as part of the cleanup legislation that
13 we have -- as staff and I think the members as well have
14 agreed that someone's going to carry in this session.

15 And the final piece is under the jurisdiction --
16 sorry -- by ex parte and concerning it applying to
17 quasi-judicial. That is consistent with what our
18 intention was, which is also in my analysis, which was
19 comparable to the State Water Board, is the model that we
20 were using. You did not have a decision like the State
21 Water Board did in United States versus State Water
22 Resources Control Board that distinguished between
23 quasi-judicial and quasi-legislative.

24 But that was our intent, so that was what we were
25 trying to do. We didn't specify that, but that's why we

1 chose the words "that are subject to a vote". So it was
2 trying to say not just general discussions about policy
3 and all those kinds of things, but something that is
4 subject to a vote.

5 And so I don't know whether you can -- that
6 interpretation would be fine. We might also be able to
7 address that in the cleanup legislation as well. But I
8 wanted to share that perspective as someone who wrote much
9 of this language.

10 BOARD MEMBER WOLK: Thank you.

11 BOARD MEMBER SUAREZ: Mr. President?

12 PRESIDENT CARTER: Ms. Suarez.

13 BOARD MEMBER SUAREZ: Mr. Brandt, I just wanted
14 to clarify, because I think you just said something very
15 important when it came to the evidentiary hearing matters.

16 There are many of these issues that we really can
17 address through our regulatory process. For example, by
18 defining a permit in a way like you say, that is,
19 inclusive of key decisions that assign rights or give
20 licenses but not necessarily some smaller items. Is that
21 correct?

22 MR. BRANDT: That's correct.

23 BOARD MEMBER SUAREZ: Okay. Thanks.

24 BOARD MEMBER BURROUGHS: Mr. President?

25 PRESIDENT CARTER: Ms. Burroughs.

1 BOARD MEMBER BURROUGHS: Mr. Brandt, you
2 mentioned that the intent was to remain in a relationship
3 with DWR but to act independently.

4 Could you speak to the issue of funding?

5 MR. BRANDT: I think that that would be -- we
6 didn't specifically address that one. Dennis can probably
7 help me out here, since this was originally a Senate bill
8 and a lot of the original language was his. But we did
9 not explicitly address that.

10 But because we anticipated you would remain
11 administratively within DWR, you would probably need --
12 you may have a line item within DWR's budget.

13 But, Dennis, would you like to --

14 MR. O'CONNOR: As I mentioned what, back in
15 December, there are a couple -- the notion that we were
16 working with is that the Reclamation Board would be --
17 or -- I'm sorry. We need to get a "fine" bucket or
18 something for those of us who slip back to the old
19 nomenclature. I'll put the first quarter in.

20 -- that the Flood Board have full control over
21 its portion of the budget. The technical question from a
22 budgetary perspective is: Precisely how do we craft the
23 budget from the legislative side in such a way so that
24 that can occur? There are a couple of different
25 mechanisms that one might use to do that. The Governor's

1 budget proposes to set up a specific program for the
2 Board. And presumably there would be some control
3 language -- budget control language or something along
4 those lines that would make clear that the Board has the
5 authority to determine precisely how those appropriations
6 are to be used.

7 But this is -- I've already alerted the Budget
8 staff in both houses that this is an important and
9 technical budget issue that we're going to need to come up
10 with, you know, an elegant solution.

11 So it's certainly on our radar screen as
12 something that, as we move through the regular budget
13 process, we're going to deal with this. The budget change
14 proposal that's in the budget for the Board we've been
15 told is essentially just a placeholder proposal, that the
16 Board and the Department and the Governor will be working
17 with the Legislature to fine-tune what the precise
18 proposal will be for staffing and contract authority and
19 that sort of stuff for the Board.

20 But I guess at this point, from a management
21 perspective, the intent of the Legislature as I understand
22 it was that you all get to decide how to spend your funds.
23 The more technical issue is: So how do we make that legal
24 and clear?

25 PRESIDENT CARTER: Thank you.

1 Mr. Brown.

2 BOARD MEMBER BROWN: Mr. Chairman, with the Water
3 Board I know they make quasi-legislative and
4 quasi-judicial hearings. And on the quasi-judicial, the
5 decisions are made based upon the rules of evidence, which
6 can be appealed to superior court. And I see up here
7 where we're talking about quasi-judicial matters. Are the
8 decisions that we make then by this Board based upon the
9 rules of evidence and are they appealable to the superior
10 court?

11 LEGAL COUNSEL CAHILL: The formal rules of
12 evidence would not apply. There's a Chapter 5 in the
13 Administrator Procedure Act that has a very formal process
14 that requires sworn testimony and cross-examination. You
15 aren't required to do that. You have to let evidence come
16 in, but it -- basically what's submitted by the applicant
17 and the opponents is your evidence. Your decision of
18 course is reviewable in the superior court.

19 PRESIDENT CARTER: Okay. Any other questions?

20 VICE-PRESIDENT HODGKINS: Perhaps a stupid
21 question. But as an engineer, I ask them all the time.

22 Can you help at all -- right now it takes six to
23 nine months to get a contract through the administrative
24 procedures. Is there anything you can do so that where
25 we, if we chose to supplement our staff with consultants,

1 could get contracts in a reasonable period of time?

2 MR. BRANDT: That's something that perhaps could
3 be done. It's nothing that's authorized now. But that's
4 a common problem for just about everyone. But in this
5 transition period it may make sense during this time that
6 you're trying to beef up your staff in the short term. So
7 that's something that may be considered as part of the
8 budget, but it's not on our radar screen at this point
9 yet.

10 And, by the way, lawyers ask dumb questions too
11 commonly.

12 (Laughter.)

13 LEGAL COUNSEL CAHILL: No.

14 (Laughter.)

15 MR. BRANDT: We always know the answer, but we --

16 (Laughter.)

17 PRESIDENT CARTER: Thank you very much.

18 So I guess one of the things that I take away
19 from this is, with regard to the evidentiary hearings, we
20 need to initiate a process to amend our regulations to
21 incorporate some of the new requirements of the new
22 legislation in our regulations; but for the time being
23 following our existing regulations as well as the
24 requirements of the new legislation will allow us to
25 safely go ahead and conduct business on permits and

1 whatnot. So that's the first thing.

2 Mr. Brown.

3 BOARD MEMBER BROWN: Taking another page from the
4 Water Board, they designate hearing officers, and that the
5 whole board members -- all of the board members would not
6 necessarily have to be present. You, Mr. Chairman, could
7 appoint Board members to serve as hearing officers on some
8 of the more routine issues or whatever issue I guess you
9 wanted to. At least that's the way it's done with the
10 Water Board.

11 Are we looking at the same kind of procedure here
12 in order to expedite some of these permits?

13 PRESIDENT CARTER: That's certainly a
14 possibility. I don't know if, Ginny, you have any insight
15 into that. Or is that something we need to look into and
16 investigate?

17 LEGAL COUNSEL CAHILL: You know, it's something
18 that you can consider, especially when you're doing new
19 regulations, if you want to do it.

20 I think what we're thinking in terms of the
21 really minor permits, you know, the fence on the levee, is
22 that we'll have a staff report and we'll have that
23 engineer's professional judgment that this won't be a
24 problem, and he'll make recitals on those four factors out
25 of the legislation. If it's not opposed, we'll put it on

1 the consent calendar. And that would be the equivalent of
2 a hearing. I mean there would be that evidence and no
3 opposing evidence and you'd be able to act.

4 So I think actually putting it on a consent item
5 would be faster and easier than sending a Board member off
6 to have a hearing on it.

7 I think we're going to have to feel our way. I
8 mean this is a new world.

9 PRESIDENT CARTER: Okay.

10 BOARD MEMBER BROWN: My comments were not for the
11 ones that would be put on the agenda as a -- just for a
12 general review and acceptance before the Board, but the
13 ones that may require some evidence.

14 LEGAL COUNSEL CAHILL: That would certainly be a
15 possibility if that's the way the Board wanted to proceed.
16 I think it will be a function of how many large ones you
17 have and what the interests of the whole Board is in
18 hearing it.

19 PRESIDENT CARTER: Classically the entire Board
20 has been very active in all of the larger permit
21 applications. And we have been reluctant to delegate any
22 authority to any individual or group of Board members in
23 the past. So we've typically heard all those as a
24 collective group.

25 BOARD MEMBER BROWN: One last thing on that. You

1 would designate a hearing officer. But obviously all of
2 the Board members could be welcome to attend, those who
3 could.

4 PRESIDENT CARTER: All right. So that's
5 something that we can consider moving forward.

6 So if it pleases the Board, if we could perhaps
7 direct staff to go ahead and initiate the process of
8 amending our regulations to include the changes required
9 by the new legislation.

10 VICE-PRESIDENT HODGKINS: I have a question. Are
11 we just asking them to amend the regulations to implement
12 the new legislative requirements or are we in effect at
13 the same time going to try to reorganize and clean up our
14 regulations? And the difference would be -- you know, one
15 thing would be to ask staff to come back with a work plan
16 to show us the timeline and the steps necessary to revise
17 those; which is a little different than directing them to
18 go about and initiate the process, or it might be a little
19 different.

20 I'm just trying to be sure we give clear
21 direction here.

22 LEGAL COUNSEL CAHILL: You know, I would think
23 that you do have other amendments you want to make to your
24 regulations. You want to change the name of the Board. I
25 know that your former attorney at DWR had some

1 regulation -- some regulations that she thought needed to
2 be amended. So when you undertake a package for the
3 Office of Administrative Law, you really will want to
4 clean up everything that you know about at the same time
5 you're making these new changes.

6 PRESIDENT CARTER: Okay. Mr. Punia.

7 EXECUTIVE OFFICER PUNIA: I think that's our
8 thinking, is that we have other issues to tackle that we
9 will include with when we are updating our regulations.

10 PRESIDENT CARTER: Okay. So we'll entertain a
11 motion to direct staff to go ahead and amend our
12 regulations, including new legislative requirements as
13 well as other known deficiencies or changes that need to
14 be made.

15 VICE-PRESIDENT HODGKINS: I would move that we
16 direct staff to initiate the process of updating our
17 regulations with -- and their first order of business
18 being returning to the Board with a work plan that
19 basically lays out a schedule that lets us know when we
20 can expect to achieve various milestones in that process
21 and where we would offer the opportunity for public input
22 into that process as we think about cleaning up the
23 regulations we have.

24 PRESIDENT CARTER: Okay. So we have a motion.

25 Is there a second?

1 BOARD MEMBER RIE: Second.

2 PRESIDENT CARTER: We have a motion and a second.

3 Any further discussion?

4 BOARD MEMBER RIE: Yes.

5 Ms. Finch was working on some changes to the
6 regulations before the end of 2007. I'm just wondering if
7 it would be appropriate to have her continue working on
8 those with Ms. Cahill.

9 LEGAL COUNSEL CAHILL: Yes, that would be
10 entirely appropriate.

11 PRESIDENT CARTER: I think that's entirely
12 appropriate as well as feasible. DWR has committed that
13 they will help us in legal assistance with basically legal
14 matters that do not represent a conflict between the Board
15 and the Department. And this is one of those.

16 Okay. So we have a motion and a second.

17 Any other discussion?

18 SECRETARY DOHERTY: Could you please repeat the
19 motion.

20 PRESIDENT CARTER: The motion is to direct staff
21 to initiate the process to amend the regulations as
22 appropriate to include known amendments that we'd like to
23 make as well as amendments that are as a result of the new
24 legislation; with the first step that they come back to
25 the Board with a work plan and a listing of milestones

1 basically in establishing expectations as to when we will
2 make progress and -- what the milestones are and when
3 we'll make progress on that process.

4 Did I restate that appropriately?

5 VICE-PRESIDENT HODGKINS: You did.

6 PRESIDENT CARTER: Okay. All those in favor
7 indicate by saying aye.

8 (Ayes.)

9 PRESIDENT CARTER: And opposed?

10 Motion carries.

11 The other comment just in terms of closing this
12 item is, on the ex parte communications, the
13 responsibility really relies with the Board members. If
14 you have questions, please contact Ginny, get some advice,
15 err on the side of conservatism on this until you get
16 advice otherwise. But really the responsibility is with
17 the individual Board members in terms of interpreting
18 this. So it's important you understand and internalize
19 what the ex parte communications mean. And if you don't
20 have -- and if you aren't clear about it, ask for help.

21 So better to be conservative and not get in
22 trouble than otherwise.

23 BOARD MEMBER BURROUGHS: Mr. President?

24 PRESIDENT CARTER: Yes.

25 BOARD MEMBER BURROUGHS: On the subject of ex

1 parte, are we going to have further legal counsel about
2 the current subcommittees and other consult -- or groups
3 that we have together? Because as it is right now, it was
4 for the time being. But is there going to be further --

5 PRESIDENT CARTER: Well, as Ginny mentioned, that
6 she was going to defer kind of discussions on specific
7 things and that Board members should ask. My
8 understanding is that we have a couple public
9 subcommittees that hold public meetings where all members
10 of the public and all members of the Board are invited.
11 There are specific Board members that are assigned to
12 those subcommittees. Those are public meetings and don't
13 really fall -- don't fall under the ex parte communication
14 as far as the discussions at those meetings.

15 There are other subcommittee meetings such as,
16 for example, the San Joaquin subcommittee -- not the
17 formal public subcommittee, but the one that you've been
18 attending in the past -- as long as the discussions are
19 general in policy and items that aren't subject to vote by
20 the Board are discussed, it is acceptable for Board
21 members to participate in those.

22 Another one that comes to mind that I think also
23 qualifies for that is the levee roundtable. Again, that's
24 addressing general policy issues and it is not -- it is
25 not discussing items that ultimately come before a vote of

1 the Board, and it's okay for us to participate in those.

2 If something is discussed in those meetings, then
3 it's probably important for the member to caution the
4 group that the member may have a problem with that
5 discussion. And they can either discontinue it and
6 then -- then at the next meeting disclose that the
7 communication occurred.

8 VICE-PRESIDENT HODGKINS: And the --

9 BOARD MEMBER BURROUGHS: The interagency
10 collaborative subcommittee?

11 PRESIDENT CARTER: I think again that's -- that
12 is discussing permit processing, how the various agencies
13 can work more efficiently and effectively together. It's
14 policy, it's process, probably not something that's going
15 to come before the Board. And so I would say that that is
16 acceptable for members to participate in that.

17 Mr. Punia.

18 EXECUTIVE OFFICER PUNIA: We are providing our
19 legal counsel the information regarding these
20 subcommittees, task forces. And I think as Ginny is
21 getting familiar with those task forces and subcommittees,
22 then she's providing guidance to the Board member on the
23 specific items.

24 PRESIDENT CARTER: Anything else?

25 VICE-PRESIDENT HODGKINS: As I look at that, it's

1 the submission of an application that would trigger ex
2 parte rules. So it's important for the Board to know
3 whenever an application is submitted to this Board so that
4 you don't inadvertently attend some kind of a quasi-public
5 meeting where an application has been submitted and
6 they're presenting that information.

7 So it's going to be important, Jay, for staff to
8 let us know as soon as an application is submitted.

9 EXECUTIVE OFFICER PUNIA: We will.

10 PRESIDENT CARTER: Very good.

11 Any other questions? Discussion?

12 Ms. Suarez.

13 BOARD MEMBER SUAREZ: Thank you.

14 I don't have a question, but I want to take this
15 opportunity to thank Ms. Cahill for her work here. There
16 were two big question marks that this Board faced back in
17 December, and actually some folks had -- were worried that
18 we were going to engage in paralysis for the next six
19 months. And you provided us with a guiding light and we
20 appreciate that.

21 LEGAL COUNSEL CAHILL: Thank you.

22 PRESIDENT CARTER: I echo that. Thank you very
23 much, Ginny.

24 LEGAL COUNSEL CAHILL: Thank you.

25 PRESIDENT CARTER: Okay. We're finished with 6.

1 What we'd like to do at this point is return to
2 Item 5, Public Comment. I notice that Colonel Chapman has
3 joined us. We are very grateful that he is here. And he
4 did want to address the Board under public comment with
5 regard to flood protection within Sacramento area.

6 So, Mr. Chapman -- or Colonel Chapman.

7 Good morning. Welcome.

8 COLONEL CHAPMAN: Thank you, Board President, Mr.
9 Ben Carter, ladies and gentlemen of the Central Valley
10 Flood Protection Board. I think I got that right.

11 (Laughter.)

12 COLONEL CHAPMAN: Thank you for inviting me and
13 thanks for your time.

14 What I'd like to say -- and I'm not sure how much
15 time you have, because we can get into more detail if
16 you'd like. I've got one of my senior engineers, Roger
17 Henderson, here with me. But the Corps has recently
18 finished its determination on the certifiability of the
19 levees -- the levee system, I should say, in the Natomas
20 basin as to whether or not those levees were certifiable
21 to the 3 percent or 33-year-level storm. And our
22 determination is that currently that we are not able to
23 certify them.

24 I want to say that the process to get us here has
25 been going for a little while, and we've been working

1 closely with the city and the county and the state and the
2 Sacramento Area Flood Control Agency. We understand that
3 this is obviously not good news at all. It's a very tough
4 news.

5 The thing that I want to stress is the
6 partnership with those agencies I just mentioned and the
7 fact that the Sacramento Area Flood Control Agency through
8 its Natomas Levee Improvement Program has a plan in place
9 and already had a plan in place, that they were working
10 and will continue to work to address the specific items
11 that we found within portions of the levees in the system.

12 The other point I want to make is -- and I've
13 been trying to make this as well -- is we are not saying
14 that we expect levee failure in the Natomas basin if there
15 was a storm at the 33-year level or greater. But what we
16 are saying is, based on our fairly rigorous standard, that
17 the risk of failure is unacceptable for the federal
18 standard that we have to apply.

19 The analysis is ongoing. There are 43 miles of
20 levee in the system and it is basically a chain, if you
21 will. And so one weak area renders the entire system, as
22 you know, weak and at risk.

23 We haven't finished the detailed geotechnical
24 analysis on the eastern side along the Natomas East Main
25 Drainage Canal. That's ongoing. That will finish this

1 year, in 2009. We are hopeful that we won't find more
2 levee deficiency. But we can't say at this point in time
3 that there is not another deficient area.

4 We are prepared -- we brought a couple of
5 diagrams. We are prepared to detail for the Board, if you
6 wish, what we found and where we found it. And so I don't
7 know if you want us to proceed with that. I'm not sure
8 how much time we have.

9 BOARD MEMBER BURROUGHS: I think it's very
10 important.

11 PRESIDENT CARTER: I think it would be valuable
12 for the Board to hear that.

13 COLONEL CHAPMAN: Okay. If I can ask Roger
14 Henderson -- I also have Judy Soutiere, who many of you
15 may know. She is our Flood Risk Program Manager for the
16 Corps as well.

17 But what I'll ask Roger to do is kind of detail
18 for you specifically what we found and where we found it.

19 PRESIDENT CARTER: Thank you.

20 MR. HENDERSON: Thank you, Colonel Chapman.

21 PRESIDENT CARTER: Excuse me, Mr. Henderson.

22 Mr. Hodgkins.

23 VICE-PRESIDENT HODGKINS: Could I ask just why
24 are we certifying a 3 percent?

25 MR. HENDERSON: I'll try to answer that.

1 As part of the AR designation Special Flood
2 Hazard Zone, FEMA has special regulations which are
3 slightly different than what we might call the standard
4 FEMA certification for the 1 percent event. So in order
5 to get an AR Special Flood Zone designation, one of the
6 requirements is to certify the levee defense system for a
7 3 percent event. And this is a case -- and the reason
8 Corps of Engineers is involved is the regulations also
9 state that a federal agency responsible for flood control
10 in the area needs to provide that certification. That's
11 why the Corps of Engineers was asked to attempt to certify
12 the levee defense system.

13 What I'll do is I'll walk over there. I think
14 I've got a loud enough voice that I probably can -- is
15 there a mike over there?

16 PRESIDENT CARTER: And we want to try and be sure
17 the public can see some of this as well.

18 BOARD MEMBER BROWN: Orientate us on that map, if
19 you would, too.

20 COLONEL CHAPMAN: And the Board wants be able to
21 see. Why don't we bring it over here. I'm not sure if
22 that works or not.

23 MR. HENDERSON: Okay. As most of you know, the
24 area in white is the Natomas basin. And the levees
25 surrounding it on the Sacramento River, on the Cross

1 Canal, the Pleasant Grove Canal, and the Natomas East Main
2 Drainage Canal make up the -- and, excuse me -- the
3 American River levees make up the flood defense system.

4 As part of our efforts, we did what we would call
5 a screening analysis. Now, when the city and the county
6 came to us and asked whether we could certify for an AR
7 special flood zone, we knew that the certification
8 process, which is for us a very rigorous process, a very
9 detailed process, would take a long time and a very
10 expensive effort as well.

11 As Colonel Chapman said though, for us this is
12 like a chain. And if we find one chink in the armor or
13 one missing link, so to speak, we can't certify. And so
14 what we did is -- based on the previous knowledge that we
15 had, did some detailed analyses of a couple of stretches
16 along the Sacramento River. And we also did a detailed
17 hydraulic -- hydrologic and hydraulic analysis of the
18 river system from here down to the American River. Based
19 on those findings and the detailed study, we saw that in
20 this Reach 1 up here, roughly River Mile 77.9, 77.5, that
21 we had underseepage issues, that they did not meet the
22 Corps criteria for underseepage.

23 In addition, on the geotechnical side down here
24 in Reach 2, near the Pritchard Lake pumping station, we
25 also found underseepage that did not meet our criteria.

1 That was on the geotechnical side. Those are of the
2 greatest concern for us, are the underseepage issues. And
3 it --

4 BOARD MEMBER BROWN: Were you concerned with
5 heating?

6 MR. HENDERSON: Yes. Actually the exit gradients
7 on the back side, or the land side, of the levees far
8 exceeded our criteria of 0.5. In some cases they were
9 twice that.

10 So what we were worried about here is areas where
11 you'd get sand boils starting to undermine the bases of
12 the levees. And that's what underseepage does.

13 In addition, the Reach 1 area with the
14 underseepage issue, we also had a levee stability problem
15 where the levee was not stable enough, or the backside.

16 BOARD MEMBER BROWN: Was your concern due to
17 piping or heating of those levees?

18 MR. HENDERSON: Actually -- well, the
19 underseepage would be piping underneath the foundation
20 with the big sand boils that are being created and the
21 water going underneath the levee, taking the foundation
22 out.

23 On the backside, when you're talking about the
24 stability of the levee, that's where you probably got
25 through-seepage going through there and the levee's

1 slumping like a small landside. And once the levee
2 slumps, the actual width of the levee's shortened. Then
3 sometimes if you take away a little bit of the crown,
4 you'll also drop the levee height.

5 In addition to the analysis on the hydraulic side
6 that we did from this point to this point, we did find
7 some overtopping issues up here as well. They were small,
8 between .1 and .3 feet. Our greatest concern though is
9 with the underseepage. That's a far more difficult
10 problem to deal with.

11 Based on that alone, we had to say that the
12 levees -- that the flood defense system was not
13 certifiable.

14 And one other thing is, now that the Corps of
15 Engineers is focused on looking at an entire system, not
16 just a piece of a levee or one side or the one side of the
17 river, as Colonel Chapman said, this entire reach here
18 along the NEMDC, or the Natomas East Main Drainage Canal,
19 we don't have enough sufficient -- we don't have
20 sufficient geotechnical data to determine whether we've
21 got underseepage issues in these areas.

22 The State of California, the Department of Water
23 Resources as part of their Urban Levee Evaluation Study,
24 and SAFCA combined, are going out and getting additional
25 data on this.

1 And so in this area since we couldn't do any
2 geotechnical analysis, and this is part of the flood
3 defense system, also made the levees not certifiable for
4 us.

5 PRESIDENT CARTER: Mr. Henderson, on the
6 overtopping, is that overtopping at a 33-year storm?

7 MR. HENDERSON: Yes. In the case that we were
8 looking at, this was overtopping at the 95 percent
9 assurance level for a 3 percent storm.

10 BOARD MEMBER BROWN: How much levee was involved
11 with that concern?

12 MR. HENDERSON: Well, again, there was a reach up
13 here. I'm not sure what the actual length of the reach
14 was. And then there was the reach down here.

15 BOARD MEMBER BROWN: On the piping problem, is it
16 a problem that can be addressed by inverted filter drains
17 on the downstream side?

18 MR. HENDERSON: No, this is underseepage. The
19 only way to address that is probably with slurry wall
20 construction. This is not piping through the levee. This
21 was actually underseepage coming up on the backside of the
22 levee.

23 BOARD MEMBER BROWN: But an inverted filter drain
24 on the downstream side wouldn't correct those areas?

25 MR. HENDERSON: In some regards, either you can

1 put in some slurry walls or -- I do believe that SAFCA's
2 got some seepage berms that they'll be putting in there.
3 And I think that's what you're referring to as an inverted
4 filter drain.

5 BOARD MEMBER BROWN: Right.

6 MR. HENDERSON: And SAFCA does have plans to
7 correct these areas. But, again, with the unknown area
8 over here and with what we've seen right now, we were
9 uncertain -- the levees at this point in time are not
10 certifiably.

11 BOARD MEMBER BROWN: I was just trying to get a
12 handle on what the fix is. Is the fix -- how major is the
13 fix?

14 MR. HENDERSON: SAFCA's plans that they've got
15 right now would fix these areas. I mean essentially SAFCA
16 and the Corps knew where these spots were. We just had to
17 do the actual analysis and make that call.

18 SECRETARY DOHERTY: Why were you not able to get
19 the technical information you needed for the drainage
20 canal on the east side there?

21 MR. HENDERSON: This area has not been looked at
22 in the past very much. So that was part of the state's
23 work, is to go out and fill those data gaps in. There
24 just isn't data there. There's not sufficient data.

25 SECRETARY DOHERTY: Is there flowing water in

1 that drainage canal in the wintertime?

2 MR. HENDERSON: Yes, ma'am, yes ma'am. You
3 actually have two canals that flow into this one around
4 here.

5 Also, although we understand that this is the
6 major worry of most people because of the flow volumes, if
7 you had a break up here on the Feather River higher, it
8 would flood the backside and there would be water against
9 these levees.

10 So not only do you have two canals joining and
11 flowing down this way. But if there is a breach farther
12 up on the Feather River and it floods the backside, you
13 would have to have these levees to be robust.

14 SECRETARY DOHERTY: So how would the repairs that
15 you intend to propose in this area, how will they affect
16 the entire rest of the system?

17 MR. HENDERSON: Well, again, this is SAFCA's
18 plan. SAFCA is concentrating much of their work right now
19 on these areas right along here, which are the big problem
20 areas. As soon as they get the data from the state, then
21 they will do their analyses. They're hoping -- and we
22 suspect that there's probably not many problems along
23 here. But the fact is there are some areas up here where
24 we've had creeks that have run -- old creeks that were
25 filled in and the levee was built over the top of them.

1 And when you have an old creek or a stream that's been
2 filled in, that actually gives you a pathway for water to
3 go under the levee.

4 So the fixes will probably be far less rigorous
5 or large or costly as they would along here. But that is
6 part of SAFCA's plan. These data hopefully will be ready
7 sometime by the end of this year, because I believe that
8 DWR when they get some of their work done, SAFCA's going
9 to go back and fill in the other data gaps, and then have
10 enough data that everybody then can do that analyses and
11 then make the fix along here.

12 BOARD MEMBER BURROUGHS: You said that DWR would
13 be providing the necessary information within a year?

14 MR. HENDERSON: Yeah, they're expected to finish
15 their Phase 1 and 2 I believe later this year. That won't
16 prevent though SAFCA from going in with their consultants
17 and also taking additional borings.

18 See, the state has somewhat of a measured plan
19 because they've got a much broader scope. The state right
20 now is doing borings up in Yuba and the Sutter area.
21 They're doing borings down in the southern part of the
22 Central Valley, throughout the entire Central Valley.
23 This was part of it.

24 And then so SAFCA can go in and fill in some of
25 the data gaps. And the state's going to give some of that

1 information and SAFCA is also going to finish that up.

2 And that's going to accelerate that process.

3 BOARD MEMBER BROWN: Is this the area where SAFCA
4 wants to increase the levee elevation on the eastern side?

5 MR. HENDERSON: Do you remember where the levee
6 elevation --

7 MS. SOUTIERE: Stein is shaking his head yes.

8 MR. HENDERSON: I should probably let Stein come
9 up here and explain probably a little bit better than I
10 can about what you're --

11 PRESIDENT CARTER: We have two permits this
12 afternoon -- this is very, very timely. But we do have
13 two permits from SAFCA this afternoon that address -- one
14 permit, the Natomas Cross Canal. And then there's also a
15 request for a 408 letter that we hope to send to you to
16 initiate the process of making some repairs and I know in
17 Reach 1.

18 And so, Mr. Buer, do you want to just quickly.
19 We don't want to be redundant for the --

20 MR. BUER: No, not at all. Just to affirm that,
21 indeed, on the northern third of the levee section we
22 would be proposing to raise the levee by about three feet.
23 That would provided us with three feet of freeboard over
24 the 200-year-design flood.

25 SECRETARY DOHERTY: Is that on the cross canal?

1 MR. BUER: Yes, the cross canal as well.

2 COLONEL CHAPMAN: And also the Reach 1 --

3 BOARD MEMBER BROWN: And you now have plans to
4 address the piping, seeping problem -- seepage problems?

5 MR. BUER: Yes, indeed. As Mr. Henderson
6 indicated, we'll use a combination of landside seepage
7 berms and cutoff walls to address the seepage, depending
8 on the underlying geology. Sometimes it's more efficient
9 to use a berm, sometimes a cutoff wall.

10 BOARD MEMBER BROWN: Again, I'm trying to get a
11 handle on the size of the problem. Is it something you
12 can fix this season or is it something --

13 MR. BUER: Oh, no. No, sir.

14 BOARD MEMBER BROWN: -- that will take five
15 years?

16 MR. BUER: The fix will take through 2010 with
17 all of our agencies working hard together to make this
18 happen. And of course the Board's role is central in this
19 in allowing the -- carefully reviewing and then allowing
20 the permits to go forward, approving the 408 and the
21 Section 104 requests of the Corps. And the Corps has
22 already committed to working hard at every level to
23 facilitate the expeditious review and approval process so
24 we can build a safe project quickly.

25 BOARD MEMBER BROWN: Is there funding available

1 for that --

2 MR. BUER: Well, the local funding is available.
3 We locally with 82 percent voter support have the money
4 ready to go. Proposition 1E funds have been allocated by
5 the state. That's ready to go as well. Those are the two
6 sources of funding for constructing the 100-year
7 improvements.

8 We expect that the Corps's concurrent effort,
9 working with the state and SAFCA to get through the
10 general reevaluation study, will lead to federal
11 authorization of this and the other improvements needed to
12 achieve 200-year level flood protection throughout the
13 city. That's scheduled for completion in 2010; and
14 another very ambitious project, but I think it can be
15 done. That would lead to federal authorization and that
16 would in turn eventually reimburse the state and SAFCA for
17 the money we're fronting to do the construction on an
18 expedited basis in recognition of the high threat that
19 this region faces.

20 BOARD MEMBER BROWN: Thank you.

21 Thank you, Mr. Chairman.

22 PRESIDENT CARTER: Okay. Any other questions?

23 Mr. Hodgkins.

24 VICE-PRESIDENT HODGKINS: Can you clarify two
25 things. I mean you said there's not soils data going up

1 the East Main Drain, Steelhead Creek. There are some
2 borings, are there not? I mean roughly do you know what
3 the spacing of those was?

4 MR. HENDERSON: No, I don't have that information
5 at hand. I know that the state's going out. They have
6 done some borings, but those were 2,000-foot centers.
7 Those were their first set of borings. They have a phase
8 approach, as I mentioned.

9 The second phase will be thousand-foot borings.
10 And I believe -- Stein, if you could correct me if I'm
11 wrong -- SAFCA was going to go in and take additional
12 borings.

13 MR. BUER: Yes, indeed. We want to make sure we
14 capture the geological issues around the stream crossing
15 which -- stream crossings which Mr. Henderson alluded to.
16 That's where the issues are. Most of the area's
17 underlaying by hardpan, very, very good foundation
18 material. But we've got to make sure we capture those
19 crossings. As the Colonel pointed out, every link in the
20 chain has to work for this basically to be secure.

21 VICE-PRESIDENT HODGKINS: I'm a little concerned
22 with impressions that can be given here. SAFCA did
23 borings along these levees at -- do you know what spacing
24 was?

25 MR. BUER: We did not sample the east side.

1 We --

2 VICE-PRESIDENT HODGKINS: Oh, you did not.

3 MR. BUER: On the priority basis, we focused on
4 the west where we knew the risk was highest based on the
5 studies we'd done before. We knew that we generally had a
6 low threat from the east side, number 1, in terms of the
7 volume of water that would be coming from the east; and,
8 secondly, we knew the foundation was generally good. And
9 so we focused on the areas where we knew we had serious
10 problems.

11 And so when we did our boring program in 2005, we
12 bored along the American, Sacramento, and Natomas Cross
13 Canal levee systems. And then we planned to come back on
14 lower priority to get these areas. So that's all part of
15 the 2010 plan to get this all done.

16 VICE-PRESIDENT HODGKINS: Okay. The second point
17 where I think a little clarification would be in order is,
18 you said that you can't certify them with a 3 percent
19 storm because of overtopping. And yet we know that the
20 '97 and the '86 storm at least in terms of the statistics
21 available now were roughly 85-, 90-year events.

22 Help us understand why you can't certify.

23 MR. HENDERSON: Okay. Let me clarify one thing.
24 It wasn't only because of overtopping. That was noted in
25 our analysis on Reach 1 and Reach 2. However, we also had

1 underseepage --

2 VICE-PRESIDENT HODGKINS: I understand that. But
3 you said the overtopping and -- I'm trying to get us a
4 little bit into the statistics here.

5 MR. HENDERSON: Okay. Overtopping in the Reach 1
6 and Reach 2 was a concern for the Corps when we used our
7 engineering technical letter, which is using the risk and
8 uncertainty to set water surface elevations.

9 Our guidance now requires that we either use a
10 the 90 percent or a 95 percent, depending on how much
11 freeboard is there, water surface elevation assurances.
12 That means that what we do is we set a water surface
13 elevation for which we're 95 percent assured that the
14 water won't get higher than that. Traditionally, when you
15 do a FEMA certification or one that's not based on risk
16 and uncertainty -- and it's more uncertainty than risk --
17 you use what's called a mean water surface elevation.
18 Albeit it's slightly lower, but it says that half the time
19 the water surface elevation will exceed that and half the
20 time it won't exceed that. We're looking for a little
21 higher assurance level.

22 So when you set a water surface elevation based
23 on risk and uncertainty at 95 percent, the water surface
24 elevation is higher. That gives you more assurance of
25 what you're saying. That doesn't necessarily mean that

1 the levees will always be not in accordance. You may have
2 levees -- because you're setting the water elevation
3 higher, you're more sure of that surface elevation. We
4 don't then demand a three-foot freeboard on top of that.

5 So R and U does not necessarily result in a
6 stricter certification for levees or required that they're
7 always higher.

8 Did that answer your question or do you need a
9 little bit more than that?

10 VICE-PRESIDENT HODGKINS: Well, I think we could
11 spend a lot of time on this, and maybe that's enough for
12 now. I'd leave it up to the rest of the Board.

13 PRESIDENT CARTER: Okay. I think we're running a
14 little short of time, we need to move on.

15 But one last question.

16 Ms. Burroughs.

17 BOARD MEMBER BURROUGHS: Thank you, Mr.
18 President.

19 Actually this question is for all of you there.

20 You know, we have paralysis through analysis and
21 we also have the words "risks that are unacceptable." And
22 Mr. Brown was trying to ask the question, you know, how
23 serious this was and if there was anything that could be
24 done. And in your response it sounded like there was a
25 long-term plan.

1 I have one question in regards to: Is there any
2 type of emergency protection that could be implemented
3 immediately to take care of the risk? And in regards to
4 public safety, I know there's been a lot of communication
5 in the newspaper. But for notification to the public, I'd
6 like to hear -- if you could speak to that about the
7 notification of this current situation, as well as if
8 flood insurance -- and maybe this could be discussed
9 later. We don't have the time now. But also is there in
10 place an evacuation plan that the public knows about?

11 MR. BUER: May I take the first cut?

12 MR. HENDERSON: Please.

13 MR. BUER: Okay. The city and the county are
14 responsible for the emergency planning with regard to
15 evacuation. And, indeed, they have devoted a great deal
16 of time and attention to this. They have inundation maps,
17 evacuation plans and so on. They're not published because
18 the exact evacuation plan develops in real time, depending
19 on where the breaks are.

20 So that's the answer to the first question.

21 Secondly, is there anything that can be done
22 immediately to address this risk? The answer is no, and
23 not beyond what we're doing now. As you know, we began
24 construction in 2007. We completed about a one-mile
25 section in an area of high risk, which was right at the

1 northwest corner of Natomas, where in fact we had some
2 boils in 2006. So we are addressing construction on a
3 priority basis. And we hope to continue on an expedited
4 basis through 2010.

5 We're looking at a process right now that may
6 delay actual initiation of 2008 construction very late in
7 the season because the hoops we have to jump through in
8 terms of approval for 408, 104, the very issues that this
9 group is grappling with. But we believe it can roll that
10 into 2009 and 2010.

11 Our plan is a highly expedited plan. And I think
12 every agency that's touching this feels the pressure that
13 this Board feels and that the public feels to get this
14 taken care of as quickly as possible.

15 From my own perspective, I felt the pressures
16 since 2004 when we began this sprint. And it's a sprint
17 every step of the way every day.

18 COLONEL CHAPMAN: Ma'am, if I could just address
19 the communication piece.

20 And, sir, I apologize for taking more time.

21 What we have done so far -- and maybe I want to
22 stress that again. We are not saying we are expecting
23 failure and we certainly don't want to cause a panic with
24 this. We're just saying that there is risk. And as you
25 know, there's always risk. The levee system is better now

1 than it was ten years ago. There have been tremendous
2 improvements made. But there will always be risk.

3 What we have done is on this past Tuesday
4 morning, it was the 15th of January, we had the Sacramento
5 Bee, the Business Journal, Associate Press, and National
6 Public Radio in for an interview where we could spend a
7 little bit of time in getting to some detail on our
8 findings and our process. And then that same day but in
9 the afternoon we had five or six local television stations
10 broadcast a short briefing that we gave out in Natomas.
11 So we've tried to get the word out very well on this.

12 But, again, we're not trying to -- we don't --
13 there's not a need to panic. But there is a need to be
14 always aware of the risk. And much as Stein has already
15 said, there is a plan in place to take care of those
16 living in the area if there was a levee breach. And the
17 federal government, the Corps stands ready also to assist
18 in flood fighting with federal dollars as well.

19 BOARD MEMBER BURROUGHS: I agree wholeheartedly
20 about the panic. But it's so important to be informative.
21 And that was the question I wanted to know. I know
22 there's a lot of publicity in the paper. But I wanted to
23 know if those folks that live there have been given any
24 kind of formal notification, written, other than what's in
25 the paper?

1 MR. BUER: Yes, indeed. Let me address that.

2 Each year the city and the county put out
3 notifications in the fall about flood risk. In the past
4 year and a half SAFCA has put out bulletins -- three major
5 bulletins describing the risk. There have been about 160
6 articles in the paper and almost countless television and
7 radio spots. We'll be putting out another bulletin in
8 March, again addressing the risk and talking about the
9 program for correcting those risks.

10 And I heartily agree with everything the Colonel
11 said. We've come a long ways since the flood of '86 when
12 these levees nearly failed. And the \$100 million that's
13 been invested so far resulted in very high level
14 performance in 1997. In fact, there were no major points
15 of distress in the '97 flood, which, as was noted by one
16 of your Board members, this was a very big flood, the
17 biggest in 150 years. So, we've come a long ways.

18 We're going to -- when I say "we," the agencies
19 involved, including Reclamation District 1000, will be
20 very vigilant as to any threat that may develop. We're
21 prepared to flood fight. We're prepared to evacuate. I
22 think we're doing everything we reasonably can and more to
23 raise awareness, to be ready to react, and to solve the
24 problem.

25 BOARD MEMBER BURROUGHS: Why wouldn't you

1 publicize the evacuation?

2 MR. BUER: We would not publicize the exact
3 evacuation directions because it depends on where the
4 levee might fail.

5 For example, if the levee fails in the southern
6 end of the basin, the water will be moving north.
7 Evacuation would be moving north as well, ahead of the
8 flood waters.

9 If the failure's at the northwest corner of the
10 basin, the water will be streaming from the north, and
11 you'd evacuate towards the south.

12 BOARD MEMBER BURROUGHS: I understand that. I
13 guess if I lived there I would want to know what Plan A is
14 and what Plan B is in the event of either.

15 Thank you.

16 MR. BUER: Okay. Well, there are preparedness
17 instructions that the city has issued and are available on
18 the website. So all the things that people should do to
19 be ready, that information has been promoted.

20 The Mayor personally conducted 13 public meetings
21 throughout the city. We reached over 5,000 thousand
22 people directly and the entire communities indirectly to
23 make people aware of how they should react personally to
24 these risks.

25 BOARD MEMBER BURROUGHS: Thank you.

1 BOARD MEMBER BROWN: When were these boils
2 discovered that causes this consternation?

3 MR. BUER: Well, these boils have been ongoing
4 since the levees were built back in about 1911.
5 Historically, they've been dealt with more or less
6 routinely by building sack rings and so on. They haven't
7 been viewed with quite the alarm that we now view them.

8 In fact, we had some pin boils in the 1997 flood.
9 Typically you watch them. As long as they're unclear,
10 they're not viewed as imminent disaster.

11 However, as Mr. Henderson said, when you do have
12 boils coming up, it means that you have undersurface
13 conditions which are not at the level of performance you
14 need for an urban area.

15 So we've known about them all along. But our
16 understanding of the threat associated with them has been
17 greatly enhanced since the 1997 flood.

18 Interestingly, most levee failures occur not with
19 overtopping but due to structural failures. And that's
20 what we're trying to get at now.

21 BOARD MEMBER BROWN: Just a matter of interest,
22 for an interim measure to reduce the porotic pressure on
23 the downstream side on an interim, something you could do
24 fairly quickly, did you consider tile drains to lower the
25 pressure?

1 MR. BUER: Well, there are a number of physical
2 solutions. Certainly drains in which the relief of water
3 pressure that's contained is one solution. And, in fact,
4 the levees currently have those kinds of drains currently
5 on the back of the levee. If you drive along the Natomas
6 levees on the Garden Highway, the southern third have
7 cutoff walls in them, the northern two-thirds have a
8 stability berm adjacent to the levee with a drainage layer
9 contained in fabric on the backside. And that's why we
10 didn't have any problems in '97.

11 PRESIDENT CARTER: Ladies and gentlemen, we
12 really do need to move along.

13 Assembly Member Wolk.

14 BOARD MEMBER WOLK: Yes, I just wanted to make a
15 very brief comment and thank the Colonel for his courage
16 and strength. And I've been involved in this area and
17 water issues since 1990, and I've seen many colonels.
18 They come and go. I applaud you on your courage.

19 COLONEL CHAPMAN: It's a team effort.

20 BOARD MEMBER WOLK: I'm sure it is.

21 And also I wanted to say, that's also true with
22 respect to SAFCA, which is a group that has never put
23 their head in the sand, so to speak, and does have a plan.
24 It's our job as elected officials to get you the resources
25 to do what you need to do.

1 This is actually a good time, if there's ever a
2 good time when you're in a recession. The pressure to
3 keep putting houses there is less. So it is the time to
4 take care of those who are there and fix it up. And I
5 think that's our job.

6 So, Stein, good job.

7 And, Colonel, I hope you stay awhile.

8 (Laughter.)

9 BOARD MEMBER WOLK: Thank you, Mr. Chair.

10 PRESIDENT CARTER: Thank you.

11 Colonel Chapman, thank you very much for making
12 time in your busy schedule. Mr. Henderson, Ms. Soutiere,
13 thank you very much for joining us this morning and giving
14 us this briefing. This has been very informative.

15 As you can tell, there's a tremendous amount of
16 interest and energy on the Board in this, and we look
17 forward to continuing to help in ways we can to solve
18 these problems.

19 So thank you very much for coming.

20 COLONEL CHAPMAN: Thank you.

21 MS. SOUTIERE: Thank you.

22 PRESIDENT CARTER: Ladies and gentlemen, let's
23 take a ten-minute recess. After our recess, we'll
24 continue with Item 7, the report of the activities of the
25 Department of Water Resources.

1 So we'll reconvene in ten minutes.

2 (Thereupon a recess was taken.)

3 PRESIDENT CARTER: Ladies and gentlemen, if I
4 could ask you to take your seats. We'll go ahead and
5 continue with our meeting.

6 As you'll recall, we are now on Item 7, Report of
7 the Activities of the Department of Water Resources.

8 And a minor change to the agenda. Mr. George
9 Qualley will be making that presentation on behalf of DWR.

10 So, Mr. Qualley, good morning and welcome.

11 MR. QUALLEY: Good morning, President Carter,
12 members of the Board.

13 On behalf of the Department Water Resources, I
14 want to add my congratulations on this historic meeting of
15 the Central Valley Flood Protection Board.

16 And I had intended to especially welcome
17 Assemblywoman Wolk and Senator Steinberg. But instead
18 I'll pass on that to Mr. Brandt and Mr. O'Connor.

19 I'm here today to represent the Department of
20 Water Resources, having been designated Acting Chief of
21 the Division as of January 15th or earlier this week.

22 I want to begin by mentioning an item that's not
23 on the agenda. I'm sure most of you saw the Sacramento
24 Bee article today -- and it was probably in other
25 publications as well -- about the report from the

1 independent review panel titled "The California
2 Challenge - Flooding in the Central Valley." It's
3 probably well timed for the first meeting of this Board.

4 And as the article indicates, the report was
5 commissioned by DWR. And as Lester Snow was quoted in
6 article, we're pleased that it reaffirms a lot of the
7 things that we're doing to address the flood issues, a lot
8 of the things that are incorporated in the California
9 Flood Safe -- or Flood Safe California initiative.

10 And activities are underway to address the
11 panel's recommendations. And the Department does plan to
12 make a formal distribution of the report in the near
13 future.

14 Just one comment I wanted to make on the Bee
15 article. As an engineer, I feel compelled to correct one
16 slight mischaracterization in the article. There was a
17 reference in there to local agencies needing to pursue
18 probable -- or protection from the probable maximum flood,
19 which is a really, really high level storm. And actually
20 it's used for dam design. It's often a 5 to 10,000 year
21 event. It's basically the worst storm that can be
22 conceived of happening when you think of all the
23 hydrologic and meteorological factors.

24 What the report actually makes reference to is
25 the standard project flood. And I want to make sure I get

1 the wording right. Standard project flood represents a
2 flood that can be expected from the most severe
3 combination of meteorological and hydrologic conditions
4 that are considered reasonably characteristic of the
5 region. And, for example, when Folsom Dam was designed
6 back in the fifties, the SPF was calculated to be around
7 250 years. And like in the Mississippi area, SPF was
8 commonly in the 500 year range.

9 So I just wanted to mention that.

10 I'll go on to water conditions. The written
11 report that you have gives information as of January 1st,
12 and things were looking kind of bleak at that point, where
13 we only had 75 percent of average to date and the other
14 statistics that you see in the report.

15 I have some updated information that reflects the
16 storm series that we had in early January. And it helped
17 the situation quite a bit. It indicates that our
18 Sacramento River median forecast increased about 12
19 percent during the storm. So the median forecast is now
20 looking at about 15 million acre-feet compared to about 10
21 million acre-feet for last year.

22 And some of the other factors that increased.
23 The Sacramento Valley water year index for median
24 condition is going forward. It's now in the category
25 "below normal." And it was in the "dry" category prior to

1 the storm.

2 San Joaquin Valley water year, it's still
3 critical. The storm didn't bring them out of the critical
4 category. And of course the 2007 water year was also
5 critical for the San Joaquin.

6 So what we have gotten so far for January is
7 basically 80 percent of what we would normally expect at
8 this time of year. So we're still below normal for precip
9 in January.

10 For the season we're about 88 percent of normal.
11 And we have only about 38 percent of the expected water
12 year precipitation. We got about 19 inches of the
13 expected 50 inches. So we still have a way to go as far
14 as the annual precip.

15 But I want to mention something from a former
16 Division Chief. He told me one time that in an average
17 normal year you'll get maybe a half a dozen decent storms,
18 as he put it, during the peak part of the flood season,
19 from December through March. And we've had a couple of
20 those so far. And typically if you've got a couple more
21 of those, you're into a wet year, and if you've got a
22 couple less, you're look at a drier year. So we've got a
23 couple storms under our belt. If we can get two or three
24 more in the next couple of months, yeah, we'll be okay.
25 So there's still time to recover for the water supply.

1 Going on to other parts of the report. Levee
2 Evaluations Branch. Some of the updates I'll go through
3 quickly in consideration of the time and where we are on
4 the agenda.

5 There is drilling going on currently in the
6 Stockton, Natomas, and RD 17. And it mentions bathymetric
7 surveys that are underway in the urban areas of the
8 Sacramento and San Joaquin, which are basically surveys to
9 kind of define the ground surface beneath the water.

10 SECRETARY DOHERTY: What happened the vessel, Mr.
11 Qualley?

12 MR. QUALLEY: What happened to the vessel?

13 SECRETARY DOHERTY: Yeah, it says there was an
14 accident or something.

15 MR. QUALLEY: Oh, I do not have details on that.

16 SECRETARY DOHERTY: I was just curious.

17 MR. QUALLEY: Yeah. I can certainly find out and
18 I'll relay that information to you. Unless somebody from
19 the group is here in the audience. I don't know if
20 anybody is here.

21 Anyway, that bathymetric work is about two-thirds
22 done now. So they've progressing on it really well.

23 We've also awarded some contracts to perform the
24 non-urban levee evaluations. And it mentions here that
25 there was a tentative award of a QA/QC contract. Well,

1 that actually has been award now to an organization called
2 ARUP. We have more consultants now with initials as their
3 name. And Frank Glick from our Division of Engineering is
4 going to be managing that contract.

5 BOARD MEMBER RIE: Can I ask a question?

6 MR. QUALLEY: Uh-huh.

7 BOARD MEMBER RIE: Are you guys finished with the
8 urban levee evaluations?

9 MR. QUALLEY: They're not finished yet. They're
10 ongoing. I think I recall the schedule for them to be
11 completed sometime this year.

12 BOARD MEMBER RIE: Is there going to be a formal
13 report?

14 MR. QUALLEY: Yeah, I mean there's formal reports
15 for each segment of the urban evaluations as they get
16 completed. And I'm sure there'll be a comprehensive
17 report too. But they're doing individual reports as areas
18 are completed.

19 BOARD MEMBER RIE: Are any of those complete?

20 MR. QUALLEY: I'm not sure right now.

21 BOARD MEMBER RIE: Okay.

22 MR. QUALLEY: Again, I'll find out.

23 I know a lot of the preliminary reports are
24 completed and the information has been shared with the
25 various agencies. But whether, you know, it's a complete

1 final version, I'm not sure if any of them have, you know,
2 gotten to the totally completed stage.

3 For the Levee Repairs Branch, I'll just mention a
4 couple of things, again in the interests of time.

5 I'd like to skip to the San Joaquin portion of
6 that report, where there was four critical sites
7 identified in the San Joaquin, two of them along the San
8 Joaquin River and one in the Chowchilla Bypass. And then
9 others in Paradise Cut and Mormon Slough.

10 There is some Public Law 84-99 rehabilitation
11 assistance going on. And there was work in RD 2068 and
12 2098. And the combination of the work didn't make the
13 benefit/cost ratio. But the RD 2068 folks went ahead and
14 did some of the repair work on their own, which allowed
15 the benefit/cost ratio, you know, for the total job to get
16 to one. So us or the Corps is proceeding with the rest of
17 the work in RD 2098.

18 On the Maintenance Support Branch, Garmire Road
19 Bridge replacement, that's going to be a great thing to
20 get that miserable bridge over the Tisdale Weir replaced,
21 and that's well on the way. That's been, as it indicates,
22 you know, a very difficult problem for maintenance during
23 high water with the debris catching on the thing. We also
24 lost a maintenance worker back in 1964. Carl Worley rode
25 a truck train off the bridge and into the water and lived

1 to tell about it.

2 SECRETARY DOHERTY: Mr. Qualley?

3 MR. QUALLEY: Yes.

4 SECRETARY DOHERTY: On page 6, that Knights
5 Landing Levee Maintenance Agreement.

6 MR. QUALLEY: Uh-huh.

7 SECRETARY DOHERTY: Does that include the White
8 subdivision? Is that in question there?

9 MR. QUALLEY: I'm not familiar with the White
10 subdivision.

11 SECRETARY DOHERTY: Well, it's that subdivision
12 that went in and that levee had to be cleaned up, and
13 there was a question of who was going to maintain it. And
14 is that --

15 MR. QUALLEY: Well, one of the updates from
16 what's written here, there is an agreement between Castle,
17 which I think is the developer, and the Knights Landing
18 Ridge District. The approval is expected any day.
19 They've done the negotiations.

20 SECRETARY DOHERTY: So the Knights Landing Ridge
21 Drainage District is going to take care of it, is that
22 right?

23 MR. QUALLEY: Yeah, but they don't -- it's a
24 combination of Castle and the District.

25 SECRETARY DOHERTY: Okay.

1 MR. QUALLEY: And the next item makes reference
2 to the mitigation for the Tisdale Bypass work. Of course
3 you authorized the permit at the last meeting. So the
4 design work is proceeding on that, so we can be moving
5 forward with the mitigation.

6 At this point I'd like to step aside just for a
7 couple minutes and ask Ward Tabor to come up. Our Early
8 Implementation Grant Program, we're kind of in the portion
9 of the process now where we're -- you know, we've been
10 developing the grant -- or the funding agreement template
11 and having discussions with the applicants. And Ward
12 Tabor from Office of Chief Counsel will give you an update
13 on where we are with that part of the process for the IP.

14 MR. TABOR: Good morning, President Carter and
15 members of the Board. I just wanted to give you a brief
16 status report on where we are on the Early Implementation
17 Program. This is a program funded by Proposition 84 and
18 1E. It will provide over \$200 million dollars for some
19 urgent levee work in the Central Valley.

20 DWR has identified four potentially eligible
21 funding recipients under this program. And they are
22 TRLIA, Sutter County LD1, SAFCA, and the City of
23 Wheatland. And we've prepared draft funding agreements,
24 as George indicated. We're awaiting some revised
25 financial plans. And some of those are going to be -- we

1 expect very shortly. We've been satisfied with the plans
2 already from SAFCA and Wheatland.

3 Each of the cities have -- each of entities have
4 identified issues that they have with the funding
5 agreement, and we're revising the funding agreement and
6 responding to those issues.

7 All four of these projects are going to require
8 Board permits. The Board has already approved the
9 Wheatland levee permit about a year ago. You approved the
10 TRLIA permit last month. SAFCA's is before you today.

11 Three of the projects also require Section 408
12 approvals by the Corps. And the TRLIA one once again was
13 previous. SAFCA's is before you today.

14 And right now as part of the process, DWR is
15 requiring formal -- DWR is requiring the appropriate
16 land-use agencies to acknowledge the flood risk for those
17 areas that would be affected by these projects. And we'll
18 be making formal funding decisions for these projects very
19 shortly.

20 The entities will each execute funding
21 agreements. And hopefully those will take place within
22 the next month. Under these agreements DWR intends to
23 advance up to 75 percent of the state's share of the funds
24 for both construction and real property acquisition. And
25 we are requiring as part of this process that an

1 appropriate entity for metes of the funding recipients
2 execute O&M agreements with the Board, which will of
3 course be subject to your approval, which will be covering
4 all the project facilities within the boundaries of those
5 entities. So those O&M agreements will be coming to the
6 Board in the near future.

7 So I just wanted to give you that brief update.
8 I know you see bits and pieces of the early implementation
9 program. I wanted to give you kind of an overall
10 perspective on where we are in the status.

11 So I'd be happy to answer any questions.

12 PRESIDENT CARTER: Do you have a feeling for when
13 the funding will actually be released from DWR or when
14 it's available?

15 MR. TABOR: Once those agreements are executed,
16 they need to be approved by the Department of General
17 Services. And the funding should be able to move forward
18 quickly after that. We'd need to get a statement of work
19 for the issues. But we're going to be advancing funds
20 ahead of the actual work being done. And I would expect
21 to see money flowing within the next couple of months.

22 PRESIDENT CARTER: Okay. Thank you.

23 Any questions from Mr. Tabor?

24 Thank you very much.

25 MR. TABOR: Thank you.

1 MR. QUALLEY: Some of you may have noticed that
2 last month we had an update on the active projects and
3 studies. We didn't put that feature in this month. My
4 intent is to do that every other month for an update on
5 the activities. I do want to mention a couple of them
6 though.

7 Of course the January 11th, we had a
8 groundbreaking ceremony for the Folsom joint federal
9 project. And some of you were at that groundbreaking.
10 And that was certainly a very significant event for all
11 parties concerned to formally do the groundbreaking for
12 the new spillway and the other features of the project.

13 The other one I want to mention is that we'd
14 recently met with the Corps and Sutter County officials on
15 the Sutter Basin Feasibility Study to resolve the kind of
16 funding issues and scope issues. And so that study will
17 be moving forward, and we expect to get it fully underway
18 in April of this year. So that's encouraging.

19 On the Floodplain Management Branch, Alluvial Fan
20 Task Force, that's been something that has been in the
21 mill for a long, long time; really over a decade since the
22 idea for it was first brought forth by Andy Lee, our
23 Floodplain Management Branch Chief years ago. And they've
24 had their initial meetings moving forward.

25 The thing with alluvial fans, a lot of people

1 don't even realize that they're in an alluvial fan. It's
2 primarily a southern California phenomenon. And you often
3 can't tell when you're on the ground that you're in one.
4 But if you're in an airplane, it's pretty obvious where
5 these alluvial fans are and it's pretty scary when you see
6 the houses scattered along. And you know that you're
7 going to read in the paper some day about, you know, the
8 mud slides happening, that something's got to give. So
9 this is really an important process, that's just getting
10 underway, to increase awareness of the hazards on alluvial
11 fans and just ways to deal with development issues.

12 Regarding the FEMA Provisionally Accredited
13 Levees. I think the written material pretty well speaks
14 for itself. Ricardo Pineda is here in the audience today
15 if you had any specific questions that you wanted to ask
16 on it. I think we've mentioned in the past that there was
17 a Provisionally Accredited Levee Agreement for Reclamation
18 District 17 in San Joaquin County. They signed the
19 agreement with FEMA on December 11th. And it basically
20 gives them two years to, you know, complete the
21 requirements of the agreement.

22 And, again, in the interests of time, I won't go
23 into details. But if you do have questions, certainly Mr.
24 Pineda would be happy to provide more information for you.

25 And that concludes my talk. If you have any

1 questions of me, I'd be pleased to respond.

2 PRESIDENT CARTER: Are there any questions for
3 Mr. Qualley?

4 BOARD MEMBER SUAREZ: I have some, Mr. President.

5 I actually have a request for you. You can share
6 with this your colleagues at DWR.

7 As you know, we -- with the new authorities and
8 legislation in place, there are a number of deadlines that
9 are quickly approaching in 2008 and 10, 12, and et cetera,
10 et cetera. I would like if possible as part of the DWR
11 reports from this point on if you can provide us an update
12 on where you are in meeting your obligations so we can
13 meet our statutory requirements specifically by the end of
14 this year, December 31st, 2008. You need to be consulting
15 with us on a number of issues. And we need to be able to
16 deliberate and give you our opinion on those.

17 So if, again, your next report can kind of give
18 us an update where you are in those processes so we have
19 the necessary time necessary to do the review and
20 discussion.

21 MR. QUALLEY: Are you specifically referring to
22 legislatively mandated deadlines for various activities?

23 BOARD MEMBER SUAREZ: Yes. I can give you
24 some -- three quick ones, for example.

25 We know that at some point before the end of the

1 year you're going to have to consult with us regarding new
2 Building Code requirements for construction in floodplain
3 areas.

4 We know that you're -- we need to adopt by the
5 end of the year a mapping area. You're supposed to map
6 areas of risk of flooding and a drainage. And we need to
7 review and adopt those by the end of the year.

8 And we're going to have to provide the
9 Legislature by the end of the year an update on where you
10 are in doing a status review of the State Plan of Flood
11 Control.

12 So those are just three important ones that --
13 I'm sure I've missed a couple of those.

14 MR. QUALLEY: Yeah, as a matter of fact the
15 Department has developed a spreadsheet listing the various
16 requirements that are in the legislation. And so that's
17 kind of a starting point for us to use as a guide to make
18 sure that we have something underway, you know, for all
19 those deals. So this is a timely request.

20 BOARD MEMBER SUAREZ: Right. So if you can kind
21 of on a monthly basis keep us informed on where are you in
22 those processes, that would be helpful.

23 MR. QUALLEY: Certainly.

24 PRESIDENT CARTER: Mr. Punia.

25 EXECUTIVE OFFICER PUNIA: I just want to -- for

1 the information of the Board, previously Rod Mayer was
2 Chief of the Division of Flood Management. Then for a
3 while he were dealing with Keith Swanson. And recently
4 George has been appointed Acting Chief of the Division of
5 Flood Management. So we'll be working closely with George
6 for a while.

7 PRESIDENT CARTER: Very good.

8 BOARD MEMBER RIE: I have a question.

9 PRESIDENT CARTER: Ms. Rie, go ahead.

10 BOARD MEMBER RIE: First of all, I'd like to
11 thank -- Where'd Ricardo go. I'd like to thank DWR and
12 Mr. Pineda for putting together the PAL information. It
13 was very helpful to get that update in our report this
14 month, and we appreciate that.

15 I do have one question. It says that The Rec
16 Board will coordinate with FEMA, the Corps, and DWR to
17 address the underseepage concerns in RD 17. What exactly
18 do we need to do? And I don't think we have very much
19 time to address these. I think an update is probably due
20 in August.

21 So, Mr. Pineda, does the Board need to do
22 anything?

23 MR. PINEDA: George, I'd be happy to.

24 Good morning, President Carter, Board Member Rie,
25 and new members of the Board. It's always an honor and a

1 privilege to be before you.

2 So the Director's report or the DWR report to The
3 Rec Board had a pretty good update, with a lot of tables
4 for FEMA's map modernization, and the Provisionally
5 Accredited Levees are a component of that.

6 PRESIDENT CARTER: Ricardo, just for the record,
7 could you identify yourself, please.

8 MR. PINEDA: Okay. My name is Ricardo Pineda and
9 I'm Chief of the Floodplain Management Branch for the
10 Department of Water Resources.

11 PRESIDENT CARTER: Thank you.

12 MR. PINEDA: So the Board and its new members
13 need to realize when we talk about PAL, Provision
14 Accredited Levees, it's as a subset of FEMA's Big Map
15 Modernization Program. The Corps of Engineers is a big
16 partner with FEMA on that related to the federal/state
17 levees or federal levees throughout the United States and
18 for the Central Valley Flood Board for the 1,600 miles of
19 project levees in the Central Valley.

20 So we went through a very long, arduous process,
21 a lot of discussions here about should the project levees
22 on the east bank of the San Joaquin River in San Joaquin
23 County that protect the City of Lathrop, portions of the
24 City of Manteca, portions of the City of Stockton, all
25 within San Joaquin County, get a PAL agreement or not.

1 DWR through its urban levee investigations drilled a bunch
2 of holes, analyzed the data, and determined that the
3 levees don't meet the appropriate exit gradient.

4 So essentially -- at the one point DWR did not
5 believe that FEMA should offer RD 17 and the communities
6 the two-year period to collect the data to say that the
7 levees meet all the criteria, because fundamentally we
8 identified physical deficiencies and it didn't meet the
9 PAL criteria. It got complex because the Corps of
10 Engineers, even though it was a federal levee, chose not
11 to comment on the issue. And the communities, that FEMA
12 defined the communities, the City of Lathrop, Manteca, and
13 Stockton, wanted the PAL agreement, and the agency that
14 does the maintenance on the ground, that's RD 17, wanted
15 the PAL agreement.

16 So it went through a long process and we ended
17 up -- Dr. Les Harder, our former Deputy Director, and Lani
18 Arena took the lead in negotiating with FEMA. It was part
19 of the process. And FEMA did grant the PAL.

20 But there were provisions to that PAL. One, that
21 DWR working with the new Board and with the Corps need to
22 kind of tell FEMA, "Here are the technical criteria we
23 believe that FEMA should use for certifying levees in the
24 Central Valley." So that's something that we've been
25 working with. You saw some discussion about the 200-year

1 criteria that Rod Mayer, our former division chief, put
2 together with Dr. Harder. And you can kind of essentially
3 apply that same criteria, just change it to 100 and look
4 at the same factors of stability -- factors of safety for
5 stability and seepage.

6 So we're well on our way to establishing that.
7 But the big issue for RD 17 levees along the San Joaquin
8 River was that underseepage. So the locals have two years
9 to collect the data. But physically -- or it should be no
10 surprise, to prevent those levees from losing their
11 100-year certification, they have to do physical work,
12 physical construction work. So when they design that
13 physical construction work, they need a criteria. We
14 pretty much agree right now that it should be -- they
15 should be designing that for at least the exit gradient
16 that does not exceed .5. So we need to kind of formalize
17 that with the Corps.

18 Unfortunately, the FEMA regs for levee
19 certification are written kind of gray and they need to be
20 changed, and FEMA agrees with that. But that's a long
21 process. And the Corps guidelines are in a variety of
22 documents. So we're trying to pull all that together.
23 And our 200-year criteria that's been drafted and it's
24 been sent around is kind of a beginning. So that's --
25 when I put in there that The Reclamation Board needs to

1 work with DWR and the Corps and the locals on the
2 underseepage, it's: What is the criteria we're going to
3 use? And we need to get FEMA to buy into it and the Corps
4 to buy into it.

5 But the special provision of that RD 17 -- and
6 I'm trying to make this brief -- is, unlike other PAL
7 agreements that FEMA offers a community, there has to be a
8 lot of disclosure. Lani Arena, one of DWR's attorneys,
9 and Les Harder and now George, they're working closely
10 with Senator Machado's office and RD 17 and the community
11 officials to come up with a timeline by which they will
12 plan, design, and construct the project. And of course
13 from the local perspective, hopefully the state, they'll
14 be winning some of these competitive early implementation
15 grants to do that.

16 So they did get the PAL agreement. And they have
17 two years to get all the data together. But we all know
18 that they physically have to do a project to reduce that
19 underseepage exit gradient. So now the whole thing is
20 what should be the underseepage gradient -- and we pretty
21 much have a good idea right now -- work through that
22 process; have them come up with a timeline, plans and
23 specs -- a planning document, plans and specs; get the
24 grant money; raise the local money; build the project.

25 So that's pretty much it, unless there are

1 further questions.

2 PRESIDENT CARTER: Go ahead, Mr. Hodgkins.

3 VICE-PRESIDENT HODGKINS: A different question.

4 You and I met with some of the interests from San
5 Joaquin County where there was encroachments that were, in
6 effect, going to prevent FEMA from accepting certification
7 of the levees. Has that been resolved?

8 MR. PINEDA: Board Member Hodgkins, those were --
9 and the report talks a little bit about it -- along the
10 Calaveras River south bank, left bank, you know, facing
11 downstream; and the Bear River -- the Bear River left
12 bank -- or, yeah, Bear Creek left bank. Some have been
13 resolved. So the Corps says -- or FEMA says that if the
14 Corps of Engineers identifies your federal levee, which
15 they are along the Calaveras River and the Bear River, as
16 having maintenance deficiencies, even if that levee -- if
17 you have all the geotech data and levee height to say that
18 levee's safe, and it previously is shown on a map -- or
19 currently shown on a map as providing protection against
20 the 100-year event, if you show up on the Corps' list --
21 maintenance deficiency list, which could be mowing the
22 grass or not enough gravel on the levee or something like
23 that, but also encroachments that the Corps has not
24 approved of, you cannot qualify for a PAL.

25 So FEMA accordingly has asked the Corps of

1 Engineers, "Which federal levees do you believe qualify
2 for PAL?" And the Corps looks through their design
3 memorandums, through historical how did the levee perform
4 during a flood, and, lo and behold, on many levees in the
5 San Joaquin Valley -- that's the area FEMA's been
6 concentrating on -- the Corps found, even though they were
7 shown as a map as providing 100 year, they were never
8 designed for the 100-year event. So those didn't qualify,
9 and the report talks about levees in Stanislaus County and
10 not receiving PAL.

11 But along the Calaveras River and the Bear Creek
12 in Stockton there have been this issue of unauthorized
13 encroachments. That's not unique to those two creeks --
14 or Calaveras River and creek. They're throughout our
15 system, and we've been methodically trying to catch
16 people -- you know, catch them and resolve them.

17 So the bottom line, Mr. Hodgkins, is the locals
18 have resolved some but not all of them. So FEMA and the
19 Corps are kind of working through that process. I believe
20 they have one year from March 2007 to resolve maintenance
21 deficiencies/unauthorized encroachments on the federal
22 levees and one year from August 2007 to resolve
23 maintenance deficiencies/unauthorized encroachments on the
24 nonproject levees. And of course Stockton is one of those
25 communities with a lot of project and a lot of nonproject.

1 It's a very complex community from a levee maintenance and
2 analysis perspective.

3 So they're working diligently to try to resolve
4 it. DWR staff I know is working with the Board staff and
5 with the locals to come up with a way by which those
6 unauthorized encroachments are resolved. Resolution could
7 be that the structure that's on there, like a boat dock or
8 a fence or a pipe, is modified to satisfy the Corps. It
9 could also mean that they have to be removed, a pipeline
10 has to be filled with concrete or some other type of
11 grout. And that's a process that this new Board will have
12 to deal with. I think it's one of those big issues that's
13 going to be coming down the line especially as FEMA moves
14 through the map mod process and the PAL process in the
15 Sacramento Valley.

16 And as the Corps does more up-to-date
17 inspections, we'll find probably more levee reaches with
18 encroachments that the Corps doesn't like. And so we'll
19 have to deal with that and do what's necessary for public
20 safety. And that's not just unique to California. This
21 is an issue that's throughout the country. And people
22 aren't happy if they have an encroachment that the Corps
23 is ordering the local maintaining agency to take out, as
24 you could expect.

25 So progress has been made on Bear and Calaveras.

1 But more needs to be made. So they have about a year from
2 March and a year from August to resolve those. And if
3 they don't resolve them, then that levee doesn't get -- it
4 does not retain its certification.

5 VICE-PRESIDENT HODGKINS: Okay. A year from last
6 March?

7 MR. PINEDA: That's correct.

8 VICE-PRESIDENT HODGKINS: Okay. And at one point
9 some of those encroachments had been permitted?

10 MR. PINEDA: The Board has issued --

11 VICE-PRESIDENT HODGKINS: Here's my concern,
12 Ricardo. Is at the last minute when the maps are going to
13 go out of sight, and there's going to be a priority of the
14 Board to do something to get those encroachments off of
15 there and we're not going to have the process or the
16 understanding of what we can do to do that, and I'm
17 concerned about that.

18 MR. PINEDA: Well, the regulations, Mr. Hodgkins,
19 do call, do outline -- your current regulations do call
20 out enforcement procedures. We have implemented those
21 before when we found egregious enforcements. And
22 sometimes the Board has told us the property owner has
23 said, "Well, my neighbor has the same type of chain-link
24 fence on top of the levee" or "juniper tree growing on the
25 levee, so why are you picking on me?" And the Board

1 historically has said, "Well, go back and look at it as an
2 area problem and don't pick on one person."

3 So we need to kind of pick and -- we need to deal
4 with the most -- ones that are the highest priority. In
5 this case it may be those specific ones on the Bear and
6 Calaveras. But it has to be something that we do in
7 conjunction with the local maintaining agency, which in
8 this case on the Calaveras and Bear is the San Joaquin
9 Flood Control and Water Conversation District I believe.
10 So who makes the first step? And San Joaquin County has
11 been doing some inventory.

12 But the bottom line is that if the local
13 maintaining agency can't get the person to voluntarily
14 remove it and the local maintaining agency doesn't choose
15 to go out there with its maintenance crews and remove it
16 or modify it, then it has to come over here to the Central
17 Valley Board to issue an enforcement, a board order we've
18 called it in the past. And that could say, "You have so
19 many days to remove the violation or we will do it for you
20 and charge you." Now, will we do it for them? Well,
21 we've got to have a crew. There are -- a lot of legal
22 issues come up. But if you look closely at the
23 regulations, there is an enforcement procedure.

24 But that's one -- I've talked to Mr. Qualley
25 about it, Rod Mayer about it. It's something we've known.

1 It's a big issue. We -- I think in terms of the hammer.
2 We need to be tough and do what's right for public safety.
3 And that means the locals have to do their part, DWR needs
4 to do its part, and the Central Valley Board needs to do
5 its part to resolve these things that the Corps is saying
6 has an adverse impact on the structural integrity of the
7 levee.

8 I mean things have been -- I think one of the
9 ones that sticks in my mind is an electrified fence on the
10 levee. We don't allow parallel fences along the alignment
11 of the levee. And for someone to put an electric fence
12 in, it's incredible. And little by little we -- I think
13 we resolved that issue and that potential property owner
14 passed away and it was removed. But things are from small
15 items -- I don't think the electric fence killed him.

16 (Laughter.)

17 MR. PINEDA: But there had been small items to
18 really big items, and it's a tough, tough issue. And I'll
19 help in any capacity. I've been involved with the
20 process. And I'm sure all the staff is willing to work
21 hard. But we need to coordinate our efforts.

22 VICE-PRESIDENT HODGKINS: Okay. To the best of
23 your knowledge right now, is there anything that the Board
24 or our staff should be doing?

25 MR. PINEDA: I'll ask Mr. Qualley if he knows the

1 status of how the permit staff -- I'm not sure if Engineer
2 Mark Herold is here from the Floodway Protection Section.
3 Because there has to be a lot of coordination with the
4 locals. The locals -- DWR staff has to ensure that the
5 locals have done their job first and tried to resolve it.
6 And what happens if we feel they're kind of putting their
7 hands over their eyes and say, "We can't do with it"? Are
8 we going to allow that or are we going to say, "Well, it's
9 your community that needs to get this resolved."

10 So I'll ask Mr. Qualley if he knows the status.
11 But it's going to be a big, big growing effort as we move
12 through this PAL process, especially for project levees in
13 urban areas that have unauthorized encroachments.

14 And even in areas where this Board has taken a
15 lead role to clean up the unauthorized encroachments like
16 the Pocket area in Sacramento, Maintenance Area 9,
17 portions of the American River, LD1 Yuba, as soon as we
18 clean them up -- I was in the Pocket area about a year ago
19 and I walked down the levee and I saw new stuff that had
20 popped up. So it's a tough, tough issue.

21 So I don't know if -- George, do you want to say
22 anything on the stats?

23 MR. QUALLEY: Well, there's so many things, it
24 gets to a staff priority issue. And, you know, following
25 the '97 flood we did get some augmentations to our

1 inspection staff, along with the staff in various parts of
2 the division. And then there are, you know, downturns in
3 funding, so the staff got cut back.

4 So our folks have had discussions with your
5 General Manager, Jay Punia, about these type of things.
6 And it does get to priorities. I mean there's --
7 obviously it's critical to do the annual inspections of
8 the system that we're required to do under the Water Code.
9 And this is an area that it's been difficult to have
10 sufficient staff to do that.

11 So it is something that we're collectively trying
12 to address in the budget process. We recognize the need
13 and we do intend to seek additional funding for this type
14 of activity. But currently, you know, something else has
15 to give if we move forward on it.

16 But, you know, we recognize that it's important
17 and we do have to collectively work together to find a
18 solution, you know, get the staffing, get the capability
19 to follow through on these things.

20 PRESIDENT CARTER: Mr. Punia.

21 EXECUTIVE OFFICER PUNIA: Board Member Butch
22 Hodgkins, just a quick update. We had several meetings
23 with the local folks and our staff, Department of Water
24 Resources, and the U.S. Army Corps of Engineers for start
25 of the businesses to identify which unauthorized

1 encroachments are a problem for the U.S. Army Corps of
2 Engineers. And so there was a meeting in the office and
3 the field, so they have identified those encroachments.
4 And then the process is underway to address these
5 encroachments. It's a very difficult issue. But we are
6 going through process one step at a time.

7 VICE-PRESIDENT HODGKINS: Thank you.

8 MR. QUALLEY: If I may, I'd like to make one
9 follow-up comment on the RD 17. Ricardo gave you, you
10 know, a real good recap of the sequence of events on that.

11 We are working with San Joaquin local interests
12 kind of on two parallel tracks right now. Of course RD 17
13 is very much interested in trying to develop an interim
14 project to deal with the underseepage issues on their
15 levee. And so our staff has met a number of times with
16 them. Senator Machado is very interested in this and
17 we've had meetings in Senator Machado's office with all
18 the folks present.

19 And RD 17 staff and their engineers are currently
20 working on a plan to, you know, analyze the issues, look
21 at the alternatives, and come up with an interim plan.

22 In parallel with that, we're currently in the
23 process of developing a project management plan for a
24 larger scoped San Joaquin feasibility study that would,
25 you know, address the issues in a large area in the San

1 Joaquin. And one of the goals of that study, as with all
2 the feasibility studies in urban areas that we're looking
3 at, would be to -- of course it'd be done in conjunction
4 with the Corps of Engineers and will identify a range of
5 alternatives, one of which will be what they term the
6 National Economic Development Plan.

7 But we're also insisting that the study process
8 characterize a 200-year level of protection plan, which
9 some -- you know, the NED comes out wherever it comes out.
10 Sometimes it's less than 200, sometimes it's more than
11 200. But we want to make sure that a 200-year plan is
12 identified.

13 So these processes will move forward in parallel.
14 Obviously the race to develop an interim project's moving
15 along faster. But the goal will be that -- if an interim
16 project does move forward, that we would want to have
17 reasonable assurance that that plan would fit as a
18 component of a larger plan that would provide 200-year
19 protection for the area. In other words, it would be a
20 phase along the way, because we're a -- as you know, the
21 state's goal for urbanized areas is to get 200 year or
22 greater. And we don't want to have a process that gets
23 stalled at a much lower level of protection.

24 BOARD MEMBER RIE: Thank you for all your efforts
25 on that. I know you and Rod Mayer and Les Harder and

1 Ricardo and Lani all worked really hard on that, and you
2 guys came up with a good compromise to start. And keep up
3 the good work on that.

4 Thank you.

5 MR. QUALLEY: Thank you.

6 PRESIDENT CARTER: Thank you, Mr. Qualley.

7 Mr. Foley, did you want to address the Board on
8 this item?

9 MR. FOLEY: Which one?

10 I was going to speak on TRLIA.

11 PRESIDENT CARTER: This was Item 7 is what I have
12 here on your card.

13 Did you want to speak on Item 8 instead?

14 MR. FOLEY: Yes.

15 PRESIDENT CARTER: I'm sorry. I'll make a note
16 of that.

17 MR. FOLEY: Sorry.

18 PRESIDENT CARTER: Very good.

19 Okay. Then at this time, ladies and gentlemen,
20 let's recess for lunch. We are running about an hour
21 behind here. So what I'd like to do, with the Board's
22 cooperation, is to take a 45-minute lunch, be back here --
23 well, a little more than 45 -- at one o'clock to begin the
24 afternoon session. And at that time we will continue with
25 Item 8 on our agenda.

1 So we are in recess for lunch. Thank you.

2 (Thereupon a lunch break was taken.)

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1 AFTERNOON SESSION

2 PRESIDENT CARTER: Good afternoon, ladies and
3 gentlemen. Thank you for returning on a timely schedule.
4 Appreciate that. We'll try and get closer to our
5 agendized times at this point.

6 We are continuing our Central Valley Flood
7 Protection Board meeting. We are on Item 8, Three Rivers
8 Levee Improvement Authority Monthly Report.

9 Good afternoon, Mr. Brunner. Thank you for your
10 patience.

11 MR. BRUNNER: Good afternoon. And good afternoon
12 to President Carter and all the other Board members here.
13 It's a pleasure being here.

14 For those who are new, this is a monthly update,
15 because of our relationship that we have with the Board
16 about providing flood protection in a timely manner to the
17 folks in south Yuba County. Our goal is to complete the
18 flood protection by the end of year 2008, this year, and
19 achieve 200-year flood protection. So we're rapidly on
20 that way to make that progress.

21 So in that behalf, I come back each month and
22 give an update because of that relationship with the
23 Board.

24 I do have two handouts, one that you received
25 before that I'll be referencing in the discussion here.

1 And there was another handout that was just
2 provided to you. It really is just the monthly update of
3 where we are on our building. And maybe I'll deal with
4 that really quick if you'd just glance at that. It just
5 says in the month of December there was zero building
6 permits. It kind of fits in with the overall activity of
7 construction activities in the Sacramento area.

8 If you have found the monthly report, I'd like to
9 turn to just the very first page on here and give a quick
10 update on Item 1.3 at the bottom. This is where we do
11 have -- there were cows on the levee. And I know that was
12 a discussion before that we had on it. And I say in here
13 that -- indications that the cows have been moved off the
14 levee and get verification. Since that time we have had
15 the discussion and the property owner did move the cows.
16 So that was -- I appreciate that.

17 If we turn to --

18 SECRETARY DOHERTY: Mr. Brunner?

19 MR. BRUNNER: Yes.

20 SECRETARY DOHERTY: The cows are moved. They
21 want the fence removed. It was a temporary fence. Was it
22 removed?

23 MR. BRUNNER: You know, I do not know if the
24 fence was removed or not. I communicated with Dan Fua
25 about that, and his response back was that the agreement

1 was to have it taken down. And I asked the folks to come
2 back and ask me. I know that Tom Eres from Ms. Hoffman is
3 here. Maybe he could speak to that if it had come down.
4 He was here earlier this morning.

5 SECRETARY DOHERTY: Yeah, he was here. But he's
6 gone now.

7 MR. BRUNNER: My recollection of just driving up
8 and down Highway 70 is that it's not. But I didn't stop
9 and go in there and look personally to make sure on it.
10 The cows definitely were on the levee in the December time
11 period, which is the wintertime, and the fencing was still
12 there at that time.

13 PRESIDENT CARTER: Mr. Fua, do you have any
14 knowledge -- specific knowledge with regard to the fence?

15 SUPERVISING ENGINEER FUA: No. But that was the
16 agreement that we had when we went there for joint
17 inspection, that she was going to remove the fences during
18 wintertime.

19 SECRETARY DOHERTY: They were temporary.

20 MR. BRUNNER: I do know that the encroachment --
21 we're still working in -- Rec Board is working with the
22 property owner on the encroachment permit. I do not
23 believe from discussions with them that the application
24 has come in to actually put the gate on it.

25 On turning to page 2, on the levee improvements

1 that we have -- and this is on the Feather River work that
2 we're doing between the Yuba and Bear. We have broken it
3 into three segments. The two -- if you think about it in
4 three-thirds, the top and bottom third are segments 1 and
5 3, respectively. Those are strength in place refixes.

6 We did work on segment 3 last construction
7 season. We had some construction issue that we're going
8 to be fixing next year.

9 My point on here is that we had the high rains
10 and winds and that. Everything was fine. We monitored
11 the site and the levees. Three Rivers did not have any
12 issues at that location or any of the other levees that we
13 had due to the recent events.

14 SECRETARY DOHERTY: When you were trenching and
15 the trench collapsed, do you have to wait till that dries
16 to go back and repair that, or what happens there?

17 MR. BRUNNER: Well, actually what we did there
18 was we did complete part of the levee cutoff wall that we
19 were doing at that time, and then we built the stability
20 berm to make sure that it was solid during that time
21 period. And what our engineers now are working with
22 the -- our GEI folks are working directly with the
23 contractor. And we're trying to work what are the correct
24 plans for the future.

25 Whatever we do, we'll coordinate with The Rec

1 Board to make sure that we're in agreement. Indications
2 are that we'll be putting in some type of new slurry wall
3 in that area to anchor and then in redoing portions of it.
4 And as far as I know now, we're not going to have to
5 excavate the old one out. But that's still to be seen.
6 That will happen during the dry season. So we're -- but
7 we're building those plans now.

8 On segment 2, there's a -- this is the middle
9 part from Star Bend to Shanghai Point. This is where
10 we're doing the setback on our project.

11 A couple key points on here is that we are
12 finalizing our design. A long discussion last Rec Board
13 about where we were and all that. And I appreciate the
14 Board's action last month. We are finalizing the design,
15 plan to have it done by the end of January, turn that in.
16 So that we can then work with the General Manager and the
17 permit details and have it issued contingent upon the 408
18 permit coming out to us from the Corps.

19 On the 408 permit, long discussions with the
20 Corps. We're making progress with that. We're still
21 working through some of the environmental documentation.
22 Hope to have that resolved very soon. We're turning in a
23 fairly complete package today to the Corps, and then
24 hopefully by the middle of February the 408 package will
25 go out. I know that I'll be going back with Rick

1 Reinhardt in February to meet with the Assistant
2 Secretary, Mr. Woodley, and have that discussion about the
3 408 permit and getting everything rapidly going on.
4 Because our goal is to get in the ground if at all
5 possible for the setback in the early April, late March
6 time period.

7 That matches the time period for funding that
8 Ward Tabor talked about earlier on a couple of months and
9 when we worked through that.

10 Our financial plan we will be turning in, most
11 likely, next week with the updates and all that. There's
12 no issues there. We're just finalizing it to turn that
13 in.

14 I have a work plan here that I've been working
15 through, getting -- make sure that we have it with the
16 State Board or state -- DWR ready to go on how we'll
17 receive funds.

18 So our plans to hit the end of 2008, our
19 contractor, Teichert, really does believe that they can
20 still hit it if we get in the ground in that time period,
21 late March, early April time period and really put a full
22 court press on. So it should be very busy there.

23 So the state funding from the EIP Grant Program
24 is really critical, that we work through these details,
25 get it going, and then move forward. The end of 2008's

1 coming very soon for us, and we realize that.

2 I think Ward did a really good job on
3 highlighting where we were on the funding. For the new
4 members on the Board, TRLIA is anticipated to get
5 somewhere around 69, 70 percent of the early
6 implementation funding, \$138 million, for our program.
7 And we're really putting a full court press on to get that
8 money in place and start the construction activities.

9 That's really the end of my report, the
10 highlights of what I submitted. If there's any questions,
11 I'll be glad to answer them.

12 PRESIDENT CARTER: Any questions for Mr. Brunner?

13 SECRETARY DOHERTY: I just have one question, and
14 I think you've kind of answered it. The delay in funding
15 is a significant challenge. But even though that the
16 funds aren't there at the present time, this will still go
17 on, correct?

18 MR. BRUNNER: What will still go on?

19 SECRETARY DOHERTY: The building, the schedule
20 will continue?

21 MR. BRUNNER: We need the State Implementation
22 Program funding to complete our project. If we do not
23 receive the funding from the state, along with the local
24 share funding that we've identified for our project, then
25 we will have a major -- we will not have the funding to

1 complete the project.

2 SECRETARY DOHERTY: Okay.

3 PRESIDENT CARTER: Any other questions for Mr.
4 Brunner?

5 BOARD MEMBER BROWN: Mr. Chairman?

6 PRESIDENT CARTER: Yes, sir.

7 BOARD MEMBER BROWN: Not necessarily for Mr. Paul
8 Brunner but maybe for Ms. Cahill.

9 I think at some point in time this would be a
10 very interesting and informative project to go on a
11 tour -- a field tour or inspection. I'd like to see it
12 myself. And I think there's a way that you can announce
13 that to where it would be available to the public to
14 participate too, that Board members, should they like to
15 do this, I think you can do that.

16 So, Ms. Cahill, how do we go about -- if we
17 wanted two of those facilities to see on site what's going
18 on and make it available to any other interested parties,
19 how do we set that up?

20 LEGAL COUNSEL CAHILL: I actually think you did a
21 site visit last fall, where you gave public notice of it
22 as a meeting and indicated to the public where you would
23 be and they should be. So there certainly are procedures
24 I can work with staff to do that.

25 BOARD MEMBER BROWN: We just might put that in

1 your hip pocket, Mr. Chairman, that at some point in time
2 I think another trip up there to see the progress, how
3 they're doing would be very helpful to all of us.

4 PRESIDENT CARTER: So sometime probably
5 mid-summer when there's activity up there and --

6 BOARD MEMBER BROWN: But that's a way you can
7 address the ex parte contact but at the same time have
8 contact in the field with the people who are actually
9 doing the work.

10 PRESIDENT CARTER: Okay.

11 MR. BRUNNER: Yeah, for timing on the project is
12 the -- doing a tour is great, because I think the actual
13 visual seeing what's going on gives a good -- and lets
14 people know what's happening in the location in proximity
15 to population and rivers and what we're doing.

16 We will -- our plan is to try to get in the
17 ground in segment 2 starting in April, major push.
18 Segments 1 and 3, the two strength in place options, we'll
19 wait until April 15. Those are permitted already and
20 ready to go. We're just really waiting for funds to go
21 forward on those. Those will also still be contingent
22 upon state funding too to complete that effort. Although
23 they receive much more local share funding to complete the
24 project.

25 But, gee, in the April, May, June time period, if

1 you're into levees and you want to -- and we're under
2 construction, it would be a great place to go tour with
3 all the activities that are going on.

4 PRESIDENT CARTER: Very good.

5 Any other questions for Mr. Brunner?

6 Thank you very much.

7 MR. BRUNNER: Thank you.

8 PRESIDENT CARTER: Mr. Foley, did you want to
9 address the Board on this item?

10 MR. FOLEY: Yes, thank you.

11 Good afternoon, Board, Mr. President. And my
12 name's Tom Foley, Yuba City, director of a small
13 nonprofit, Concerned Citizens for Responsible Growth. We
14 have been involved with the Yuba County situation since
15 2004 -- we formed our nonprofit in 2004.

16 We're concerned that with the falling housing
17 market, which gets worse every day, what guarantees is the
18 state receiving on the 30 million? The Board has
19 shepherded this project and is in charge of it. And that
20 is a very legitimate question for the Board to be asking.

21 Don't see it happening if all the -- the builders
22 are actually -- builders are going broke. So unless the
23 state has a lien on property or a check in the bank, or
24 whatever, the state is walking in with \$138 million, and
25 the 30 is very likely not to be there. That has to be a

1 state concern.

2 The TRLIA have made many promises that have not
3 been kept. There's always a various reason. And the
4 Board should be -- the Flood Protection Board should be
5 aware that with this 30 million the builders have with the
6 situation that -- they have a ready-made excuse to walk
7 away. And then we have 138 million in place.

8 Our little group has been proposing since
9 December of 2006 that the State of California, Rec Board,
10 DWR, take this project over. And I think that it should
11 be given serious consideration. And the events over the
12 last year and the events today support that.

13 The Rec Board has been given extraordinary powers
14 when the Rec Board was formed, extraordinary power to take
15 over projects when they see that the public safety is at
16 risk. They have those regulations or the laws. And I
17 think this Rec Board should give serious consideration to
18 using those powers.

19 If you walk into this thing, the state walks in
20 with \$138 million, 30 not guaranteed, then we're going to
21 play -- what's going to happen to the public, who is going
22 to play games with the 30 throughout 2008? And we'll miss
23 another season very likely.

24 PRESIDENT CARTER: Thank you.

25 All right. Let's move on to Item 9, Sacramento

1 River Bank Protection Project. Consider approving
2 amendment to the Local Cooperation Agreement between the
3 U.S. Army Corps of Engineers and the State of California
4 represented by the Central Valley Flood Protection Board
5 on the Sacramento River Bank Protection Project increasing
6 the authorized linear feet from 405,000 feet to 485,000
7 feet.

8 Mr. Wheeldon, good afternoon.

9 MR. WHEELDON: Good afternoon. Thank you.

10 My name is Dave Wheeldon. I'm a senior engineer
11 with the Critical Repairs Branch of the Division of Flood
12 Management for Department of Water Resources.

13 A little bit of background on the Sacramento
14 River Bank Protection Project. This project provides a
15 long-range program of bank protection for the Sacramento
16 River and it's major tributaries. Essentially the work
17 consists of placement of rock revetment on the river banks
18 in addition to addressing the environmental impacts by
19 creating fish and wildlife mitigation habitat.
20 Recreational facility development is also part of the
21 project.

22 Initially the project was authorized in 1960 for
23 130,000 lineal feet of bank protection work. The second
24 phase of the authorization was in 1974, which allowed for
25 an additional 405,000 linear feet of bank protection,

1 which is currently nearing completion. We have work
2 scheduled for next year repairing approximately 16 sites
3 that will use up the remainder of that authority, that
4 second phase authorization of 405,000 linear feet. So
5 that's the background on the project.

6 And we're here -- I'm here to request that the
7 Board consider as authorizing amending that second phase
8 authorization for an additional 80,000 linear feet, which
9 represents 20 percent of that 405,000 linear feet that was
10 authorized in the Phase 2.

11 PRESIDENT CARTER: Are there any questions for
12 Mr. Wheeldon?

13 Mr. O'Connor.

14 MR. O'CONNOR: This is in part because this is
15 our first, you know, real paying attention to this sort of
16 thing at this level of detail.

17 The protection project, what sorts of activities
18 are you taking to protect the banks, or would be
19 authorized under this?

20 MR. WHEELDON: Consistent with the work we've
21 been doing in the past, the protection work consists of --
22 the actual construction consists of essentially placing
23 rock revetment at the lower riprap or rock slope
24 protection that you see very commonly along the river
25 along the lower half of the -- or the bottom portion of

1 the bank. That sees a lot of the changes in the river
2 elevation.

3 Above that it sort of benches into where we're
4 developing riparian and vegetation habitat for the
5 sensitive species, which consists of plantings of native
6 plantings and also inserting what we call in-stream woody
7 material, which is big dead trees with branches to create
8 habitat for the fish species.

9 And then after that bench it continues up the
10 slope where we just provide bank protection, not with
11 rock, but just with increased vegetation and slope
12 stability measures like that.

13 MR. O'CONNOR: And are -- I'm not sure what the
14 exact job title is. But are like restoration biologists
15 and such involved in the design of these projects?

16 MR. WHEELDON: Yeah, absolutely. All phases.

17 MR. O'CONNOR: Well, just -- and on the plantings
18 and such that go along with it, is there -- I mean when I
19 hire a landscaper I get a warranty on my tree for, you
20 know, a year or so. Is there any sort of warranties on
21 the vegetative work?

22 MR. WHEELDON: We have the -- for the first year
23 after the contract is completed, the contractor monitors
24 and maintains the site, replacing dead plantings, making
25 sure the irrigation equipment is still in place, the

1 fences are up, the protective fences, and repairing and
2 maintaining any damage that occurs to the sites through
3 flood events or other actions.

4 Beyond that, after that first year, DWR contracts
5 out a -- implements a monitoring contract for the
6 following two years that does the same thing. So for
7 three years after the construction is complete, the sites
8 are monitored and maintained to keep the established
9 mitigation measures in place.

10 MR. O'CONNOR: And you mentioned that there was
11 irrigation involved. What happens at the end of the three
12 years? Does the irrigation get turned off or --

13 MR. WHEELDON: At that point the plants and the
14 plantings are established enough that we can remove the
15 irrigation.

16 MR. O'CONNOR: And what if they prove in year
17 four to not be established?

18 MR. WHEELDON: If it's a -- again, if it creates
19 a critical erosion site, we'll go back and during our
20 annual review it will come up. And then additionally all
21 the sites are monitored through levee inspections -- the
22 regular levee inspection program.

23 MR. O'CONNOR: I was more concerned with the --
24 if we put in habitat on the upperest parts of the levee as
25 part of the on-site mitigation and then in year four or

1 five because we moved the irrigation system, that habitat
2 dies and suddenly we haven't mitigated the impacts.
3 That's my concern.

4 MR. WHEELDON: Okay. Yeah, the thinking is is
5 that after that three-year monitoring period that the
6 plantings are established enough that they don't require
7 that.

8 PRESIDENT CARTER: Any more questions for Mr.
9 Wheeldon?

10 LEGAL COUNSEL CAHILL: If I may Mr. President.
11 Mr. Wheeldon, is there funding available for
12 this?

13 MR. WHEELDON: The WRDA 2007 I believe authorized
14 funding for this.

15 LEGAL COUNSEL CAHILL: On the federal side?

16 MR. WHEELDON: Yes.

17 LEGAL COUNSEL CAHILL: But doesn't this obligate
18 the state also to do some funding? And are there funds
19 available on the state side?

20 MR. WHEELDON: I'm pretty sure that the funding
21 is coming out of the Prop 1E and PL 84 funds.

22 PRESIDENT CARTER: Any other questions?

23 VICE-PRESIDENT HODGKINS: This cost sharing
24 agreement doesn't have a cost ceiling in it; is that
25 correct? Because we're not amending that.

1 MR. WHEELDON: Correct. I think -- I think
2 that's correct, yeah. The authorization is indicated by
3 lineal footage as opposed to a dollar value.

4 VICE-PRESIDENT HODGKINS: Okay. All right.

5 LEGAL COUNSEL CAHILL: I'm just wondering if
6 there's urgency with this contract. We just got -- just
7 recently located the contract that's being amended. And
8 it basically provides that the state agrees that upon
9 notification that the U.S. will commence construction of
10 some of these projects, we will do all these things. It
11 doesn't seem to leave much flexibility. And I know this
12 has been going on for sometime. So maybe the Board is
13 happy with that.

14 VICE-PRESIDENT HODGKINS: I'm not -- go ahead,
15 Jay.

16 EXECUTIVE OFFICER PUNIA: This program is an
17 ongoing program. This is just adding linear footage.
18 Then the Corps has to identify the sites. And once the
19 Corps and the state identify the sites, then they go
20 through environmental process. So it takes time to get
21 these sites constructed. So this is just requesting the
22 Board to authorize to add the lineal footage in this
23 contract.

24 It's been a good program. And it's a preventive.
25 So the overall objective is so that we can protect the

1 levees. We rest erosion at the bank levels so that it
2 doesn't progress to the levee structure itself.

3 VICE-PRESIDENT HODGKINS: I think probably the
4 Board isn't happy with the terms of that agreement. I
5 have never yet met a sponsor who's happy with the terms of
6 his agreement with the federal government. But it
7 fundamentally breaks down in the end. If you want the
8 federal money, this is the agreement you will enter into.
9 And so I don't think it would make sense to hold this up
10 pending an attempt to renegotiate that agreement.

11 That's my thoughts.

12 PRESIDENT CARTER: Any other questions, comments?

13 Go ahead.

14 BOARD MEMBER RIE: So the only thing we're doing
15 here today is adding language to the agreement to put a
16 length in the original agreement?

17 MR. WHEELDON: Yeah, to modify, to amend the
18 original length from 405,000 to 485.

19 BOARD MEMBER RIE: And that's it?

20 MR. WHEELDON: Yes.

21 VICE-PRESIDENT HODGKINS: And that's the only
22 change to the agreement. But I don't think there should
23 be any misunderstanding. The Department I'm sure intends
24 to use this as an agreement to get federal funding for
25 some bank work that they were facing. So I mean we'll

1 follow that there will be money expended out of the bond
2 fund or at least the state's match, which on this
3 agreement is 25 percent of whatever it costs to do this
4 work.

5 PRESIDENT CARTER: Mr. Punia.

6 EXECUTIVE OFFICER PUNIA: Just lately the feds
7 were -- at the federal level there was no funding. So
8 state has advanced some money to the feds to continue on
9 this program. So I think it's important for us to keep
10 this program going, because a lot of critical erosion
11 repair sites were repaired under Sacramento River Bank
12 Protection Program.

13 PRESIDENT CARTER: Okay. Any other questions?
14 Comments?

15

16 BOARD MEMBER BROWN: Are there any cards on it,
17 Mr. Chairman?

18 PRESIDENT CARTER: No cards.

19 Any members of the public wish to comment on
20 this?

21 BOARD MEMBER BURROUGHS: There is a card.

22 Yes. No card.

23 BOARD MEMBER BURROUGHS: There's a card.

24 PRESIDENT CARTER: Go ahead.

25 I didn't get a card.

1 MR. TULLY: I just want to real briefly say
2 that --

3 Could you identify yourself, please.

4 MR. TULLY: Yeah. Sorry. Patrick Tully from
5 Garden Highway. I'm a member of the Garden Highway
6 Association.

7 And as living on the Garden Highway and hearing
8 from other people that live on the Garden Highway, one of
9 the issues that we see with the bank protection, one is
10 that it does change the channel, which you're going to see
11 later in this meeting, is that there's an argument that
12 the channel's not being changed.

13 And, two, one of the odd things for us on Garden
14 Highway is that if we want to protect the bank of the
15 river, that is our yard essentially, we have to actually
16 get permits and apply for riprap permits and then purchase
17 the riprap ourselves to repair that bank and help that
18 bank from -- or stop that bank from eroding. And the
19 members along Garden Highway kind of find that odd that
20 here we have for years had to spend our own money and get
21 all the permits to do this, and now the state's coming
22 along and doing it for people that basically haven't been
23 doing it for free. It's kind of an odd thing.

24 And what I would suggest or like to throw out
25 there is that we be considered in that, because it is a

1 cost for people and some people don't want to pay that
2 cost so you do get bank erosion. If there was a fair and
3 equitable program in place that allowed us to get either
4 riprap cheaply or maybe a permit process is easier, you
5 would see that some of these banks would have actually
6 been taken care of a long time ago.

7 The other issue with the banks is that the bank
8 improvements often are taking away beaches on the river.
9 And once the trees are put down and tied on to the riprap
10 to create basically an area that will slow flow and allow
11 silt to cover up the rocks, it is a hazard in the water.
12 It's a definite hazard.

13 If you need to see a great example of this,
14 there's a beach right here in Sacramento -- the City of
15 Sacramento. We call it ski beach. It's right off of
16 Garden Highway right underneath I-80. And you'll see that
17 the rocks did do their function. They did stop erosion.
18 But they also created tremendous hazard. And people still
19 climb over them and still try to swim.

20 Thank you.

21 PRESIDENT CARTER: Thank you.

22 Anyone else wish to comment?

23 Okay. So we will entertain a motion on this.

24 SECRETARY DOHERTY: I make a motion that we
25 approve the additional 85,000 feet.

1 MR. WHEELDON: Eighty thousand.

2 SECRETARY DOHERTY: Eighty thousand. I'm sorry.

3 Yeah, you're right, 80,000.

4 VICE-PRESIDENT HODGKINS: I'll second.

5 PRESIDENT CARTER: Okay. We have a motion and a
6 second.

7 Any further discussion?

8 BOARD MEMBER RIE: Just a procedural question.

9 For this particular item, since we are approving
10 an amendment to a contract, do we need to close the
11 hearing before we vote?

12 LEGAL COUNSEL CAHILL: I don't know. But you
13 could. That would be -- I'm not sure that this is one of
14 those types of things. But if it is, yes, why don't you
15 close the hearing and then take your vote.

16 PRESIDENT CARTER: Okay. I'll go ahead and
17 hereby close the hearing on the Sac River Bank Protection
18 Amendment to the local cooperative agreement between U.S.
19 Army Corps of Engineers and the State of California on the
20 Sacramento River Bank Protection project, increasing the
21 authorized linear feet from 405,000 feet to 485,000 feet.

22 Any comments?

23 Very good.

24 So we have a motion to approve the amendment and
25 a second.

1 All those in favor indicate by saying aye.

2 (Ayes.)

3 PRESIDENT CARTER: And opposed?

4 Motion carries.

5 Thank you, Mr. Wheeldon.

6 MR. WHEELDON: Thank you.

7 PRESIDENT CARTER: At this time, we're moving on
8 to Item 10.

9 And I would like to call to order a hearing on
10 Application No. 18159-2, Sacramento Area Flood Control
11 Agency, Natomas Levee Improvement Program, the Natomas
12 Cross Canal South Levee Phase 2 Improvement Project in
13 Sutter County. This is Item 10A.

14 Here we are holding a hearing to consider
15 approval of the permit to place fill to raise and realign
16 approximately a 5.3 miles of levee and to construct
17 approximately 4.3 miles of seepage cutoff wall in the
18 levee along the south bank of the Natomas Cross Canal in
19 Sutter County, in Reclamation District 1000.

20 With that, we'll go ahead and open up our
21 testimony with the Board staff presentation.

22 Mr. Butler, good afternoon.

23 (Thereupon an overhead presentation was
24 Presented as follows.)

25 SENIOR ENGINEER BUTLER: Good afternoon,

1 President Carter and members of the Board and staff.

2 I'm going to make my presentation. This is going
3 to be the first hearing of a permit application. So there
4 may be a few wrinkles along the way as we work through
5 some of the procedures. But my intent today is to give
6 you a presentation on the application. And then Ms.
7 Cahill may choose at that time to discuss a little bit
8 about the proposed resolution that we've put together this
9 week. If she does or does not, after that then a
10 representative from SAFCA will make their evidentiary
11 presentation to you. And then we'll go on, I'm assuming,
12 with your pleasure, with public comments and discussion,
13 rebuttal, et cetera.

14 So I'm going to take you through a brief
15 description. We discussed this last meeting, but I think
16 it's prudent to review some of the key points, and I'll
17 move through as quickly as possible.

18 --o0o--

19 SENIOR ENGINEER BUTLER: This is a map of the
20 overall Natomas Basin. The subject of our interest for
21 this particular hearing is a component of SAFCA's Natomas
22 Basin, Natomas Levee Improvement Program along the south
23 levee of the Natomas Cross Canal.

24 --o0o--

25 SENIOR ENGINEER BUTLER: A little blowup here

1 showing the two reclamation districts bounding the canal.
2 To the north, Reclamation District 1001; to the south,
3 Reclamation District 1000. RD 1000 is also one of SAFCA's
4 member agencies.

5 --o0o--

6 SENIOR ENGINEER BUTLER: And this map shows a
7 small section. Approximately -- of the overall 5.3 mile
8 canal. Approximately nine-tenths of one mile is proposed
9 to have a waterside raise constructed along it.

10 --o0o--

11 SENIOR ENGINEER BUTLER: And this is a
12 cross-section of what that waterside raise might look
13 like. They're showing 3-to-1 slope, some vegetation
14 removal, rock slope protection, here's a cutoff wall, et
15 cetera. So just to refamiliarize us with what that all is
16 about.

17 --o0o--

18 SENIOR ENGINEER BUTLER: I'm thinking I might
19 have missed a slide here.

20 No. Okay.

21 Then the remainder of the 5.3 miles has proposed
22 for it a landside raise. Here's a cross-section of that.
23 You can see the land side to the right of the screen,
24 raising the levee to both accommodate a higher crown
25 elevation and to increase the thickness of the levee. The

1 higher crown elevation is for freeboard purposes. The
2 increased thickness is to minimize the impacts of -- or
3 the risk of through-seepage. And then underseepage, and
4 through-seepage to a degree, also would be addressed by a
5 cutoff wall to be installed as well. And I believe
6 there's approximately 4.3 miles of cutoff wall.

7 BOARD MEMBER BROWN: Does it go down to bedpan or
8 a clay barrier, the cutoff wall?

9 SENIOR ENGINEER BUTLER: Yes, that's correct.
10 They'll take it down to try to get to an impervious
11 structure.

12 BOARD MEMBER BROWN: Does it vary considerably in
13 depth or is it fairly consistent throughout?

14 SENIOR ENGINEER BUTLER: I'm going to ask John to
15 give you the -- this is John Bassett's stuff. He can give
16 you the specific numbers.

17 MR. BASSETT: John Bassett, Director of
18 Engineering for SAFCA.

19 The wall is pretty consistently around 70 to 75
20 foot deep throughout the length of the proposal. Although
21 we will during the construction confirm the depth of the
22 wall. So it may vary up or down, you know, five feet out
23 of that based on actual ground conditions under the wall.

24 BOARD MEMBER BROWN: But it does go down to
25 impervious material all the way?

1 MR. BASSETT: Yes, it is a fully penetrating wall
2 going into a clay layer.

3 BOARD MEMBER BROWN: Okay.

4 --o0o--

5 SENIOR ENGINEER BUTLER: So to summarize, there's
6 essentially three components of this permit application
7 that you're hearing today. Again, placing about 5.3 miles
8 of landside fill to provide additional freeboard; to place
9 waterside fill -- and the landside fill also has the
10 effect of minimizing seepage -- placing waterside fill on
11 approximately nine-tenths of a mile, and that gives a more
12 stable waterside slope and reduces the need for removal of
13 vegetation and minimizes the need to relocate a local
14 roadway. And that's really the key for the waterside
15 impact. And then about 4.3 miles of cutoff wall.

16 And to refresh your memory, we approved -- you
17 approved last month at the December meeting sending the
18 Section 408 request to alter the Federal Flood Control
19 Project to the Corps of Engineers. So that was the
20 preliminary step. And while that process goes on, we are
21 now to the point where we believe we can act upon the
22 permit.

23 --o0o--

24 SENIOR ENGINEER BUTLER: A brief history.

25 Natomas Basin levees were exposed during the '96 flood to

1 deficiencies in their design. And through 1993 there was
2 a Sac Urban Levee Reconstruction Program where they put in
3 stability berms and slurry cutoff walls. The American
4 River watershed investigation, which is the more
5 traditional way of doing large projects, it's the federal,
6 state and, in this case, SAFCA process, was presented to
7 Congress in 1992. And as part of the Water Resources
8 Development Act of '96, the Natomas levee improvements
9 were approved -- or were authorized by that act.

10 And then the SAFCA's north area local project was
11 completed in 1996. And that included some strengthening
12 to the Natomas Cross Canal at that time. Another large
13 federal project, the American River Common Features
14 Project, which combines portions of the American and
15 Natomas Basin in one project, it also included the Natomas
16 improvements. And those projects are considered to be a
17 part of any future federally designed and authorized
18 projects.

19 So SAFCA is incorporating the components of
20 the -- or SAFCA's Natomas Levee Improvement Program
21 intends to incorporate any components that may be proposed
22 to strengthening the Natomas Basin into the Natomas Levee
23 Improvement Program. And they are assuming that those
24 same components would also be -- will eventually be a part
25 of the American River Common Features Project.

1 --o0o--

2 SENIOR ENGINEER BUTLER: Then the '97 floods came
3 along, and we got more information that the underseepage
4 issue was a bigger problem than had previously been
5 understood.

6 By '93 -- maybe I -- did I put that in twice?

7 Yeah, okay. Forget that second bullet.

8 So we're in the '97 floods. As a result, the
9 American River Common Features Project was expanded and
10 authorized through the development at WRDA in 1999. And
11 it included direction to raise the south levee of the
12 Natomas Cross Canal to provide at least 200-year
13 protection. And as a side, a lot of Folsom Dam
14 modifications were also included in this legislation.

15 But by 2000 underseepage was still a problem, and
16 the Corps decided to reevaluate the scope of the common
17 features project. This led to new federal urban levee
18 standards in 2004. And that common features project is
19 still under reevaluation today.

20 So then in 19 -- in 2005 and 2006 SAFCA
21 reassessed the levees. They concluded that underseepage
22 did threaten several of their levees and that additional
23 freeboard is needed.

24 So that's kind of how we got to where we are,
25 briefly, today without a lot of detail.

1 --o0o--

2 SENIOR ENGINEER BUTLER: A quick summary of
3 SAFCA's plans. They want to get to 100-year protection as
4 quickly as possible. And they want to lay the groundwork
5 to achieve 200-year protection over time. They want to
6 design the improvements to their basin levees that are
7 anticipated to be included as components of the common
8 features project currently under reevaluation by the
9 Corps. And of that third item, that's related to the
10 eventual 104 request that Mr. Kerr will be presenting
11 later on.

12 --o0o--

13 SENIOR ENGINEER BUTLER: So a couple of
14 legislative actions that I believe are important to remind
15 ourselves of.

16 AB 1147 in September 2000. It adopted and
17 authorized the Natomas Levee Improvement Project, with the
18 Board retaining final approval authority. So it blesses
19 the project, but it doesn't take away the Board's
20 regulatory authority.

21 And then last October in addition to all the
22 bills that we've heard about today that reorganized our
23 Board, Senate Bill 236 authorized SAFCA's 200-year flood
24 protection program. And it adopted findings that the
25 project wouldn't result in any adverse hydraulic impacts

1 to basins outside Natomas that are also protected by the
2 Sacramento River Flood Control Project.

3 --o0o--

4 SENIOR ENGINEER BUTLER: So I'm going to get into
5 the hydraulic design and analysis now, because I think
6 this is really the crux of the main contention on this
7 issue here.

8 Let's go back to '57 just for education purposes.
9 The project, the Sacramento River Flood Control Project,
10 is based on a 1957 Corps of Engineers design memorandum.
11 Thus we get the familiar term "1957 Water Surface Profile"
12 or the '57 Profile, as a lot of us call it.

13 It was not based on today's common statistical
14 standards such as the 100-year, 1 in 100, 1 percent
15 chance, or the 200-year, 1 in 200, half a percent chance
16 flood events. But it was based on historically observed
17 peak flood flows from prior flood events.

18 And it's design -- the system design did not
19 assume that there would be levee failures. It did not
20 assume that a levee would fail upstream to protect a levee
21 downstream. And that it also assumed that flood flows
22 would be diverted through a combination of flood relief
23 structures and fixed weirs into overflow areas and
24 bypasses, many of the major features of the project that
25 we see out on the ground today.

1 It also was based on setting the levee heights at
2 least equal to the '57 profile, plus three to six feet of
3 additional height that we know as freeboard to address
4 hydrologic and engineering uncertainty and to contain
5 wind-driven waste.

6 --o0o--

7 SENIOR ENGINEER BUTLER: Now, our current
8 hydraulic design requirements: Current federal law
9 requires that urban basins be protected by levees high
10 enough to contain the 100-year water surface elevation
11 plus three feet of freeboard. And because Natomas Basin,
12 as do most basins -- most urban basins, they participate
13 in the National Flood Insurance Program, we need to
14 consider the 100-year water surface profile or the
15 100-year design flow.

16 The California Legislature through SB 5 last
17 October has also established a 200-year design as the
18 appropriate standard of urban flood protection. So we
19 must consider the 200-year event.

20 --o0o--

21 SENIOR ENGINEER BUTLER: Now, specific to the
22 Natomas Cross Canal, the south levee: It approximately
23 contains the 200-year profile, but it lacks at least three
24 feet of freeboard. I believe my staff report says it
25 contained it. And if you look at the profiles, there are

1 certain areas where it just maybe is a little bit under
2 it. So I want to be perfectly clear that I'm correcting
3 that misstatement.

4 So it's almost got 200-year protection, but it
5 doesn't have the freeboard. And although it's not yet
6 law, SAFCA's anticipating that the state mandate for urban
7 levee 200-year protection will ultimately include a
8 requirement for three feet of freeboard above that
9 computed 200-year profile. And also with the assumption,
10 consistent with the '57 design, no upstream levee
11 failures.

12 So, therefore, their design includes raising the
13 Natomas Cross Canal south levee where necessary to get
14 200-year profile with at least three feet of freeboard.
15 So there's, why are they doing this raise?

16 --o0o--

17 SENIOR ENGINEER BUTLER: Okay. How was this
18 hydraulic analysis done? This is important when we're
19 talking about what technique we're using.

20 So it's a modified version of what's called the
21 UNET one-dimensional unsteady flow models developed by the
22 Corps. The model has been in place since the late 1980s.
23 The model application was developed by the Corps for the
24 Sacramento/San Joaquin Comp Study. And then it was
25 calibrated to observe water surface elevation profile and

1 high water marks and releases that occurred during the
2 1997 flood.

3 So this is pretty much recognized as one of the
4 best available scientific tools that we have at our
5 disposal here for flood routing and water surface profile
6 modeling.

7 And the model was then used to run -- I'll use
8 the word "run" -- to simulate the 100-year and 200-year
9 flows. And they did this with two different sets of
10 conditions: The without NLIP improvements, or what's on
11 the ground today, versus all the NLIP improvements put in
12 place. So you want existing conditions versus future
13 proposed conditions.

14 And then on the top of both of those analyses,
15 they looked at the impacts of adding the Folsom Dam
16 modifications, which I spoke to earlier. And in general
17 when you put the Folsom Dam reoperation and modifications
18 in, the water surface profiles for both the 100- and
19 200-year event are slightly lowered -- actually
20 substantially lowered in some places. And, again, no
21 upstream levee failures, overtopped levees don't fail.
22 That's the assumption.

23 So if there's a low section of levee, the model
24 assumes it just flows over like a long broad-crested weir
25 but it doesn't create a big breach. Okay?

1 So this is the conservative way to look at the
2 modeling. You're saying we're not going to let water
3 escape the river through levee breaches and we're not
4 going to assume any failures anywhere.

5 Now, there were other sensitivity analysis and
6 other analysis done that did include levee failures. But
7 I don't believe those are pertinent to making a decision
8 today. I think the key things are what we're talking
9 about here. So I'm not going to present to you a bunch of
10 other analyses. You can see them in the EIR and other
11 documents that SAFCA has, but I don't think we need to go
12 into them today. It would just take way too much time.

13 --oOo--

14 SENIOR ENGINEER BUTLER: SAFCA has to decide what
15 is significant in their hydraulic impact criteria. And so
16 what they came up with was that if they computed a change
17 of a tenth of a foot or more, and that's about 1.2 inches,
18 between a model run of existing conditions without the
19 improvements versus a model run with the proposed
20 improvements, and that tenth of a foot change encroached
21 into the design levee freeboard for the three targeted
22 design flows, '57, the 100, and the 200, then they would
23 consider it significant.

24 So you've got this tenth of a foot significance
25 threshold. Now, I just want to be clear that that's

1 SAFCA's criteria, it's not the Board's criteria. It's not
2 in our regs to say if it's below a tenth of a foot, we're
3 okay with it and if it's above, we're not okay with it.

4 --o0o--

5 SENIOR ENGINEER BUTLER: So then they ran the
6 model. And I'm going to separate different types of
7 impacts for you so we can pretty clearly see what the
8 impacts are.

9 The first one I want to talk about is levee
10 strengthening. Now, if we just make a levee wider, we put
11 in a cutoff wall, and we prevent seepage from occurring,
12 there is a measurable or quantifiable or modelable -- I
13 guess I'll use a new word there -- amount of flow that you
14 would keep in the river. And for the cross canal, it's
15 about 5.3 miles long, SAFCA's estimating it's about 10
16 cubic feet per second at the design flow rate, which is
17 about -- over 20,000 cubic feet per second.

18 So you can see the flow through the levee is not
19 significant. Even though it can cause -- it can
20 ultimately lead to failure, in general it's small. So
21 while we recognize that, yes, there is a reduction in
22 flow, SAFCA has concluded, and I agree with the
23 conclusion, that that is not a hydraulic impact. We're
24 keeping more water in the river. But that's small and
25 microscopic amount of water does not have a significant

1 impact, either to the cross canal or to other reaches in
2 the Sacramento River Flood Control Project. So that's one
3 direct hydraulic impact that I think we can check off as
4 not causing a problem.

5 --o0o--

6 SENIOR ENGINEER BUTLER: The second one -- and
7 this is the one that typically is obvious -- is the
8 waterside fill. And I mentioned the nine-tenths of a mile
9 waterside fill. It represents -- when you put that fill
10 in, we're taking out about 5 percent of the
11 cross-sectional area of the channel. So, without other
12 offsetting changes in channel geometry, typically when you
13 put waterside fill in, it tends to reduce the
14 cross-sectional area available to convey flow. And that
15 in turn causes the water surface elevation to go up.

16 Well, what does the model say about that? So at
17 the three different design levels, the 1957, the 100 and
18 the 200, I've got a table here that presents the computed
19 results per SAFCA's analysis. And you can see the '57,
20 it's about .36 inches on the cross canal, no effect to the
21 Sacramento River. At the 100-year flow, it's about a
22 quarter of an inch on the cross canal and about half of
23 that on the Sacramento River, about an eighth of an inch.
24 And at the 200-year level, it's about six-tenths of an
25 inch on the cross canal at the upper end of it and no

1 impact on the Sacramento River.

2 And as a result of this, SAFCA concluded, because
3 it was under their tenth of a foot threshold, that these
4 impacts, while quantifiable, are not significant. And so
5 I'm agreeing with that conclusion.

6 And if you're not familiar with the cross canal,
7 the reason that these numbers don't -- may not seem
8 logical in all cases is that the cross canal -- when the
9 river's up really high, the water actually flows backwards
10 in the cross canal. It flows upstream. So there's a huge
11 backwater effect on the Sacramento. And that's why -- or
12 from the Sacramento River to the cross canal. And that's
13 why as the flow goes up, the impacts don't just linearly
14 increase. Okay?

15 So at this point I've concluded that there's no
16 significant direct hydraulic impact due to the nine-tenths
17 of a mile on the cross canal of waterside fill to either
18 the cross canal or to adjacent reaches in the Sacramento
19 River.

20 --o0o--

21 SENIOR ENGINEER BUTLER: Now, the last direct
22 hydraulic impact I want to discuss is that of the landside
23 fill. And all throughout SAFCA's documents, they've
24 stated that because the landside improvements proposed for
25 the canal do not directly affect or alter its hydraulic

1 cross-section -- you know, think back to that
2 cross-section drawing I showed you -- the changes in
3 geometry are outside the area that conveys flow, the flow
4 carrying capability isn't affected by those improvements.
5 And, as you would expect, when you run the UNET model both
6 with and without project, there's no difference in the
7 computed results due to those changes -- those geometry
8 changes, because they're outside of the area that conveys
9 the flow.

10 And I think it's this argument right here that so
11 far we have heard most directly from SAFCA, that because
12 all or most of our -- and I'm paraphrasing their
13 argument -- most of our work is outside the channel, we
14 have no impact.

15 And so given that context, I will agree with
16 their conclusion that those landside improvements are not
17 causing direct hydraulic impact to the channel.

18 --o0o--

19 SENIOR ENGINEER BUTLER: Now, I'm going to
20 slightly open a can of worms. But we talked about this
21 last month. And the intention I tried to bring last month
22 to the Board was that an improved understanding of the
23 direct hydraulic impacts as I've described them versus
24 something that not only I call risk shifting but SAFCA has
25 acknowledged is risk shifting as well -- or could be risk

1 shifting. So let's talk about it a little bit. And I
2 think as you hear my arguments, maybe we can come to a
3 better understanding of this.

4 The program, the NLIP program, the whole theme,
5 it proposes to increase the level of flood protection from
6 the '57 design profile first to 100-year and then to a
7 200-year level for their component of the Sacramento River
8 Flood Control Project.

9 So we have this big project that we're all
10 charged to protect, and we're saying -- we're considering
11 a program that would drop a higher level of design
12 protection on to a current '57 profile. We're going to
13 increase the design.

14 Well, I think it's important that we distinguish
15 between the direct hydraulic impacts from the in-channel
16 work, so including the waterside improvements and the
17 seepage reduction measures that I've already talked about,
18 with flood risk shifting impacts -- and I should use the
19 word "potential" flood risk shifting impacts -- that may
20 be created as a result of changing the design level of
21 flood protection.

22 So, thus, some degree of shifting of flood risk
23 from the Natomas area as we improve its levees to other
24 areas outside Natomas may occur.

25 --o0o--

1 SENIOR ENGINEER BUTLER: Well, the next question
2 is: Eric, how do you measure this? And this is sort of
3 the \$64 million question. And also if you can measure it,
4 you know, how do you assign compensatory measures or delay
5 or halt construction? It's important -- these questions
6 are important and we ought to at least consider it before
7 we move on to a decision.

8 The problem we have, the answer I can't give you,
9 is there's no currently agreed-upon tools or methodologies
10 available for us to evaluate and analyze these shifts.
11 Now, David Ford last summer gave us a presentation, I
12 guess it was at the May meeting, of some ways to consider
13 alternate risk-based analyses for hydraulic impacts. But
14 we're not ready to do that yet.

15 But Board approval of a permit, including the
16 federal request, the 408 request that we've already sent
17 forward to alter the system, it should be done I think
18 with as much understanding as possible that approval of
19 construction may result in an associated or shifted flood
20 risk.

21 Well, there's a --

22 BOARD MEMBER RIE: Eric?

23 SENIOR ENGINEER BUTLER: Who's talking?

24 Teri, yes.

25 BOARD MEMBER RIE: Could you explain what you

1 mean by shifting of risk? I have -- I'm an engineer, I've
2 been doing this for 20 years, and I have no idea what
3 you're talking about.

4 SENIOR ENGINEER BUTLER: Very simply -- and I
5 would ask SAFCA when they come up to answer the same
6 question. What it means to me is, under current
7 conditions the Natomas Basin has some level of risk of
8 flood protection -- or risk due to flooding. And that's
9 being debated today, with the Corps came in here and they
10 said, "We're going to certify for this level and..." All
11 right. So we have a certain level of risk right now.

12 Now, I come out there and I build my levees up, I
13 raise them up, I'd put in drains, I'd put in cutoff walls.
14 And now I believe that my level of risk is reduced. I
15 have a much safer levee system. There may still be
16 residual risk, but there's a reduction in risk.

17 To other areas in the project, if a large
18 catastrophic flood event were to come through, you would
19 anticipate that SAFCA's levees would be much improved in
20 their ability to hold back the waters due to that high
21 flood level. But other neighboring basins, especially
22 downstream, who haven't had the benefit of improvements to
23 their levees, may now have an increased risk to flooding
24 because those higher water levels and flows would be
25 passing past SAFCA's levees down to their levees. That's

1 in general the concept of risk shifting. You're taking --
2 you're basically taking what might be perceived as one
3 weak spot and moving it somewhere else.

4 So that's sort of -- I'll try to be -- that's the
5 layman's evaluation of it.

6 BOARD MEMBER RIE: I'm sorry. I still don't
7 understand. Because if you're talking about catastrophic
8 floods -- let's pick a number.

9 SENIOR ENGINEER BUTLER: 200 year, 500 year.

10 BOARD MEMBER RIE: 500 year. If we have a
11 500-year event, SAFCA's levees are at risk. They're still
12 at risk. So how do you shift that risk?

13 SENIOR ENGINEER BUTLER: Okay. Let's take a
14 200-year event and, let's say, SAFCA's levees handle it.
15 And Pocket levees or levees in West Sac, which may now
16 have less than 100-year protection, they now have an
17 increased risk of flooding because -- they're more likely
18 to see a higher water surface elevation because that flood
19 is definitely going to come downstream passed SAFCA.
20 That's the general concept.

21 BOARD MEMBER RIE: But what is it that SAFCA's
22 doing that would increase the risk for a levee downstream?
23 If they're not -- if the water surface is not changing by
24 their encroachment, how do you translate what they're
25 doing in Natomas downstream?

1 SENIOR ENGINEER BUTLER: Well, that's a question
2 that a lot of people have asked. And they say, well,
3 SAFCA's not -- SAFCA's not putting more water into the
4 system by increasing their levees. They're not changing
5 the operation upstream at a reservoir or such. But if
6 Mother Nature chooses to dump a big flood event through
7 the system, and SAFCA's levees have been upgraded to a
8 much higher level of flood protection than existing
9 conditions, then wouldn't it follow that other areas who
10 have lower levels of flood protection may now be at more
11 risk because an upstream area for sure won't fail or is
12 less likely to fail? That's the concept as I understand
13 it. I'm not saying -- I didn't make this up. I mean
14 that's how I understand it.

15 So you can choose to agree or not agree with
16 that. But I believe that's a reasonable explanation of
17 the concept.

18 BOARD MEMBER SUAREZ: I'm sorry. It sounds more
19 like speculation than explanation to me.

20 SENIOR ENGINEER BUTLER: Well, I'm just relaying
21 the current state of the knowledge as I understand it.

22 BOARD MEMBER BROWN: This is a Butch Hodgkins'
23 territory and he ought to be the one answering this.

24 (Laughter.)

25 BOARD MEMBER BROWN: My vision --

1 VICE-PRESIDENT HODGKINS: Here's what I think
2 that's important to understand. If pre-project, before
3 SAFCA improves their levees, we have a flood and their
4 levee fails, and other levees will fail in the system too,
5 water goes in on their land. That water is out of the
6 flood flow. And we cannot predict for sure when that
7 levee's going to fail.

8 But now they improve their levee. Now, we have
9 this big event again and their levee doesn't fail. Now
10 there's more water in the system downstream of SAFCA. And
11 while it's no -- it may be higher than it would have been
12 if the levee failed. So the part of it that's speculative
13 is nobody can determine whether SAFCA's levees would have
14 failed before other levees failed even if they didn't fix
15 it, in which case in the pre-project condition there
16 wouldn't have been any water going in Natomas. So
17 it's -- it is risk shifting in that more water -- it isn't
18 risk shifting. It's potentially risk shifting in that
19 more water may stay in the system downstream of SAFCA's
20 levees.

21 The part that is important to understand is
22 nobody knows whether or not that's true, because you
23 cannot predict exactly when a levee is going to fail and
24 nobody knows now whose levee's going to fail first.

25 So, I think it is speculation from the standpoint

1 of it is speculation on a condition as to when a levee
2 fails and doesn't fail, which is speculation. But
3 conceptually, if you increase your level of prediction --
4 your protection and reduce your risk of flooding, there's
5 now more water that potentially somebody else has to deal
6 with. And to me, I even say it up here, you know, I
7 understand the concept, but I don't think anybody in my
8 opinion has the right to assume that somebody else's levee
9 failure is part of their flood protection. Okay? And,
10 see, SAFCA, when they modeled this, they didn't do that.
11 They assumed that all of the upstream levees didn't fail,
12 and that even when they were overtopped they didn't fail
13 but a certain amount of water ran out of the system over
14 the levees.

15 So their design approach says our levee will be
16 okay if all of the levees in this system are taken up to
17 the 200-year level of flood protection, which in my
18 opinion is the right way to design a project.

19 And it is frustrating sometimes, but there
20 is -- it is speculation. I can conceive of a situation
21 where there could be risk shifting, but I don't know that
22 it's ever going to or would have occurred.

23 PRESIDENT CARTER: Let's go ahead and continue
24 with the staff presentation. We'll have more discussion
25 on this issue as we proceed.

1 SENIOR ENGINEER BUTLER: My intent is not for us
2 to come to a resolution of what is or is not risk
3 shifting. But I believe it's wrapped up into the
4 arguments that are being made that there should be a more
5 systematic approach to our design for improvements to the
6 system and that individual projects should not be allowed
7 to move forward until this systematic approach is in
8 place. That's an arguments. I'm not making that
9 argument, but that is an argument.

10 So as I started to say earlier -- and thank you,
11 Butch for helping me clarify that -- SB 5 mandates just
12 such a system-wide approach. And it says that DWR shall
13 develop and the Board shall adopt a Central Valley Flood
14 Protection Plan as part of the new State of Plan Flood
15 Control. And they give us four years to do that.

16 What's happening in reality is we've just been
17 given bond money by our public and we're starting to spend
18 that money as part of these flood safe EIP projects, of
19 which this project that you are discussing today is one
20 of.

21 And these projects can be built out in advance of
22 the completion of a more comprehensive analysis. But that
23 comprehensive analysis will occur. And so that's why I
24 felt it's important, for purposes of argument, for
25 purposes of moving forward, for purposes of better

1 understanding between government and public, that we can
2 think maybe to separate out direct hydraulic impacts
3 versus whatever we want to call these other impacts.

4 And in my staff report, it's important to state
5 at this point, that on page 14 I had a paragraph in there
6 that starts with, "Additionally, all federal, state and
7 local partners..." and it was regarding the issue of
8 responsibility. And upon further discussion with legal
9 counsel, I agree that, you know, that's not really an
10 engineering conclusion. I did not intend for that to
11 recommend assigning of some sort of legal responsibility
12 of this decision based on these impacts -- these
13 system-wide impacts. So I am officially on record as
14 striking that from my staff report.

15 BOARD MEMBER RIE: What are you striking?

16 SENIOR ENGINEER BUTLER: It's the paragraph on
17 page 14 that says -- it begins with, "Additionally, all
18 federal, state and local partners" -- and I believe it
19 goes on to say, "should accept responsibility for" or
20 something like that. So that's being --

21 PRESIDENT CARTER: But my version of the staff
22 report shows it on page 18, Item 3.

23 SECRETARY DOHERTY: Well, it's on 18 and --

24 SENIOR ENGINEER BUTLER: Is 18 the
25 recommendation, Mr. Carter?

1 PRESIDENT CARTER: Eighteen is the staff
2 recommendation.

3 SENIOR ENGINEER BUTLER: Yes. Okay, so it's
4 first mentioned, alluded to in a similar form on page 14.

5 PRESIDENT CARTER: Okay.

6 SENIOR ENGINEER BUTLER: With your permission,
7 I'd like to move on to a quick discussion.

8 PRESIDENT CARTER: Please proceed.

9 SENIOR ENGINEER BUTLER: Thank you.

10 Okay. So as you recall, last meeting I asked
11 SAFCA to -- in order to help improve our understanding of
12 the hydraulic analysis, I asked for some additional water
13 surface profiles to be computed and provided to us.
14 They'd already been computed. They just needed to put
15 together the profiles. And I received six additional
16 plots, two each for the Natomas Cross Canal, the south and
17 the north levee, two each for the Sacramento River
18 upstream of the American River, and two each for the
19 Sacramento River downstream of the American River. And an
20 analysis of those plots clearly compare the differences in
21 the computed water surface profiles at the '57 design, the
22 100- and the 200-year event. I felt it was important to
23 be able to at least pictorially see what those differences
24 were.

25 And you can also look at those profiles and you

1 can fairly clearly point out, you know, where a profile
2 intersects the current top of the levee.

3 --o0o--

4 SENIOR ENGINEER BUTLER: This particular plot is
5 one of those profiles. It's the south levee of the cross
6 canal.

7 And the red lines here about mid-page represent
8 the 100-year model run.

9 The solid line on the bottom is with the Folsom
10 Dam modifications. You can see a slight reduction in
11 stage due to Folsom.

12 The solid blue line in the middle is essentially
13 both plots at the 200-year level. And it is shown as
14 being, you know, somewhat intersecting with the top of the
15 existing levee.

16 The dotted red line at the top is what SAFCA is
17 proposing to raise their levee to to give them sufficient
18 freeboard.

19 Across the river -- across the canal to the north
20 is RD 1001. And this is one -- this is a typical example
21 of a concern that a neighboring basin has, where it shows
22 that their levee profile, which is this jagged sort of
23 green line, is at many places below not just the 200-year
24 profile but at least in one location below the 100-year
25 event. So they're basically saying, "Hey, you guys are

1 going to raise your levees. What about us?" You know,
2 "you're going to be protected but we're not."

3 --o0o--

4 SENIOR ENGINEER BUTLER: And then across -- if we
5 go down -- if we go out on the Sacramento River -- and,
6 again, I should point out, these model runs are based on
7 all of SAFCA's proposed work. They don't have their model
8 runs, you know, just for the cross canal component or just
9 for the Sacramento River east levee component or some
10 other component. It's all together.

11 And this is the east levee, the Natomas Basin
12 side of the Sacramento River. Here's the Feather River.

13 Can you guys see that cursor moving up and down
14 okay?

15 And then, you know, here's an example of a
16 proposed raise. Again, the 100-year in red, the 200-year
17 in blue, the current '57 on the bottom.

18 All right. So I like this presentation much
19 better because it gives most of us, and for those of us
20 who aren't engineers, I think it's a more clear
21 representation of the differences in design levels.

22 --o0o--

23 SENIOR ENGINEER BUTLER: And then here's across
24 the river in the agricultural basins on the Yolo County
25 side. And, again, you see a lot of areas where they do

1 not have sufficient levee heights to contain either the
2 100- or in most cases the 200-year event.

3 --o0o--

4 SENIOR ENGINEER BUTLER: And then as we move
5 downstream American River to Freeport, this is again on
6 the Sacramento side, there's an area just around the I
7 Street Bridge with some places that are below the 200-year
8 event. I'm told a lot of this is related to ADA access,
9 where the plan is they put in some sort of barriers during
10 high water.

11 And then across the river on the Yolo County
12 side, one particular location here where it's low.

13 So six profiles I think give most of us a pretty
14 reasonable easy understanding of what the computations at
15 least show.

16 --o0o--

17 SENIOR ENGINEER BUTLER: So here's the summary of
18 the hydraulic results and the need for a comprehensive
19 system-wide analysis. Board staff -- Okay, I'm
20 encouraging the Department of Water Resources and the
21 Board, along with the federal and local flood partners, to
22 develop and incorporate methodology to evaluate the
23 impacts of these risks and to propose corrective measures
24 when necessary in a comprehensive system-wide manner
25 during the development of the new Central Valley Flood

1 Protection Plan and State Plan of Flood Control.

2 --o0o--

3 SENIOR ENGINEER BUTLER: The design drawings and
4 specs, we've only got 60 percent stuff right now. The
5 geotechnical logs and reports haven't been submitted.
6 Those will be -- when those come in as part of the early
7 implementation project review, DWR will review those. And
8 those reviews will have to be analyzed before construction
9 starts. So there's a way that we can -- even though we
10 don't have the information now, we can condition that the
11 ultimate granting of the permit has to have approval of
12 those construction details.

13 --o0o--

14 SENIOR ENGINEER BUTLER: I think we heard a
15 little bit about the early implementation project, so I
16 won't go through this. But basically the update is DWR is
17 still working with the applicant on financial issues, and
18 they hope to have some resolution by the end of January.
19 They still don't have any current, you know, showstopper
20 objections to the project right now. But the final
21 analysis that they will make will be based on SAFCA's 100
22 percent drawings and plans and specifications, not the 60.
23 So that's still down the road aways.

24 --o0o--

25 SENIOR ENGINEER BUTLER: Again, Corps comments.

1 We mentioned this last time. They're basically going to
2 wait until their 408 review to tell us what they think
3 about this project. And we sent that review out in
4 December.

5 --o0o--

6 SENIOR ENGINEER BUTLER: CEQA compliance.
7 SAFCA's lead agency, they've done their EIRs. SAFCA
8 certified it. They've adopted a mitigation monitoring
9 reporting plan, they've issued findings, and they've
10 approved the project.

11 The Board as a responsible agency, we have
12 independently reviewed the analysis in SAFCA's EIR, their
13 plan and their findings. And we prepared our own
14 conclusions. They're basically rolled up in a draft
15 resolution that we'll discuss in a little bit.

16 And then after -- so after consideration of all
17 those CEQA documents, we can either adopt the project
18 description, analysis and findings -- we may adopt it by
19 issuance of the final permit. And so those findings are
20 included in the draft resolution. I'm not going to talk
21 anymore about the CEQA findings as part of my
22 presentation.

23 --o0o--

24 SENIOR ENGINEER BUTLER: So here's what we've
25 been waiting for. Staff recommendation.

1 So we've conducted -- and, again, I'm told that I
2 need to make this statement.

3 Through additional discussions just this week
4 since I sent you a staff report a week ago, as a result
5 recommendations for this Agenda Item 10 on page 18 of your
6 staff report, they're to be replaced by the following:
7 We're going to recommend you to approve the project,
8 approve the permit application, subject to final permit
9 approval to be conditioned on receiving 408 approval from
10 the Corps and receiving early implementation project
11 approval by DWR including a review of the 100 percent
12 submittal.

13 And we recommend that the Board adopt the draft
14 resolution which Ginny has prepared. And you should also
15 have a copy of that. It's entitled "Findings and Decision
16 Authorizing Issuance of Encroachment Permit No. 18159-2,"
17 et cetera. This is the new procedure as a result of the
18 changes -- the legislative changes that we're now
19 operating under, that we have to adopt findings on an
20 evidentiary hearing.

21 --o0o--

22 SENIOR ENGINEER BUTLER: What I'm suggesting is
23 that the remainder of the hearing -- I would like to give
24 Ginny the opportunity at this point to discuss the
25 findings at least procedurally as to the intent of them.

1 Then we need to hear SAFCA's presentation on their
2 evidence, public comments, questions, discussion, closure
3 of hearing, and decision.

4 And I'm going to need a lot of help. I'm going
5 to rely on Ginny's lead and probably Teri as well to get
6 us through that process.

7 So this is kind of where the old Board staff
8 report would end. And now we're into the further portion
9 of today's hearing.

10 So with that, I'm prepared to step aside, unless
11 you have other directions.

12 SECRETARY DOHERTY: I have one question, if I
13 might, Mr. Chairman.

14 PRESIDENT CARTER: Let me just review the process
15 a little bit. It's a little bit different than what's
16 there on the screen. But what we have had is the Board's
17 staff presentation; next step is public testimony, in
18 which case the applicant will come up and testify; then we
19 will entertain persons that are supporting the application
20 from the public, we will then entertain comments from
21 folks who are opposing the application, and then anybody
22 else who wants to comment on this particular application
23 before the Board.

24 The applicant will then be given an opportunity
25 to rebut some of the public testimony opposing the

1 application. And Board staff may also -- also will have
2 an opportunity to comment on any of the testimony from the
3 applicant or members of the public.

4 Once we have heard all that testimony, then we
5 will close the hearing -- or close the public testimony
6 and the Board will deliberate and discuss.

7 So just so everybody understands the process that
8 we're going to go through moving forward.

9 Any questions?

10 BOARD MEMBER RIE: Just a comment.

11 The resolution are the findings based on the
12 evidence presented at the hearing. I'm not sure if we
13 should be talking about that at this point or if we should
14 wait until we deliberate.

15 PRESIDENT CARTER: I think we ought to hear all
16 the testimony before we talk about what the findings ought
17 to be, which means that we'll go ahead and enter into our
18 public testimony phase of the hearing.

19 LEGAL COUNSEL CAHILL: Ms. Chairman, can I ask
20 one question?

21 PRESIDENT CARTER: Yes.

22 LEGAL COUNSEL CAHILL: There is also a new draft
23 permit available, is there not?

24 SENIOR ENGINEER BUTLER: You have copies of that.

25 LEGAL COUNSEL CAHILL: And in addition to the

1 recommendations that the staff has just made there is one
2 new condition in that permit which requires the permittee
3 to implement the mitigation measures that were identified
4 in their mitigation monitoring plan. So that's one other
5 way that the new draft permit differs from the one that
6 you saw earlier.

7 And I would agree that the resolution -- that is
8 not intended to be the way you have to come out. It was
9 intended simply as a draft as a structure so that if the
10 Board wished to enter findings today, you can throw the
11 whole thing away, you can rewrite it, you can do whatever
12 you want. It's not evidence. It's not testimony. It was
13 just an attempt to help the Board, as we get into this new
14 way of going forward, to give you a structure.

15 Thank you.

16 SENIOR ENGINEER BUTLER: And I might add that
17 that condition is Condition 15 in the conditions of the
18 application of --

19 PRESIDENT CARTER: Thank you very much, Mr.
20 Butler.

21 SENIOR ENGINEER BUTLER: You're welcome.

22 PRESIDENT CARTER: I also want to remind
23 everyone, members of the Board as well as the public, that
24 we did hear a significant amount of comments and testimony
25 in our December meeting here. I want to assure everyone

1 that that is a matter of public record, will become a
2 part -- that record will be a part of the evidence for
3 this hearing. In the interests of time, if folks can
4 focus on any new issues or any additional information over
5 and above what -- if they speak again in this meeting,
6 rather than being repetitive, that would be much
7 appreciate by the Board so we can move forward.

8 So, Mr. Hodgkins, did you want to --

9 VICE-PRESIDENT HODGKINS: I have I question about
10 ex parte communication. When is the appropriate time to
11 disclose one if you have it?

12 LEGAL COUNSEL CAHILL: This would be a good time.

13 VICE-PRESIDENT HODGKINS: I had a telephone
14 conversation with Jeff Schneider when he was an opponent
15 to this project what, a week and a half ago? Wait. Or
16 December maybe. I'm not sure when.

17 He owns a home on the Garden Highway. He talked
18 to me about some of the reasons he believes he's not being
19 treated fairly by SAFCA or this Board if we grant this
20 permit. I tried to convince him that he was wrong. There
21 were no conclusions. But I think that's the general
22 nature of our discussion.

23 PRESIDENT CARTER: Very good.

24 Okay. Let's go ahead. We'll begin the public
25 testimony. We'll start with the applicant.

1 So invite members of SAFCA to go ahead and
2 address the Board.

3 MR. BASSETT: Thank you, President Carter.
4 Again, John Bassett, Director of Engineering for SAFCA.

5 And I do have a long presentation which I handed
6 out to you -- or your staff handed out to you just a few
7 minutes ago. It is predominantly the same presentation we
8 made to you in December.

9 Again, not knowing the procedures, wanting to get
10 the evidence before the new Board, we wanted to make sure
11 that we handed it out again. I can go through it or not,
12 at your pleasure.

13 I know there was several questions that the Board
14 had of Colonel Chapman and Stein Buer this morning. I can
15 maybe address some of those as far as our phasing and
16 things of that sort.

17 But I can do whatever you want to see.

18 PRESIDENT CARTER: This is the December
19 presentation. This is the January 18th presentation.
20 Maybe you can high spot any differences.

21 MR. BASSETT: The only differences --

22 PRESIDENT CARTER: This is part of the record.

23 MR. BASSETT: Yes, I changed the title to also
24 include Item 11, which is the Sacramento River permit. I
25 added one slide to show a seepage berm on the land side,

1 like Director Brown was discussing this morning. And I
2 added four additional slides regarding wind and wave
3 damage should the basin levees fail and water get on the
4 inside of the levee.

5 PRESIDENT CARTER: Why don't you go ahead and
6 take us through those new slides then.

7 MR. BASSETT: Okay.

8 (Thereupon an overhead presentation was
9 Presented as follows.)

10 MR. BASSETT: Okay. Again, I identified the
11 Sacramento River Permit 18159-3. That will also be
12 addressed under a different item today.

13 --o0o--

14 MR. BASSETT: I added this slide, which shows the
15 seepage berm that would be constructed along portions of
16 the Sacramento River levee in addition to the -- a cutoff
17 wall that would also be constructed along several reaches
18 of the Sacramento River in addition to the Natomas Cross
19 Canal.

20 --o0o--

21 MR. BASSETT: This slide here is the phasing of
22 the project. We are proposing to work on the Natomas
23 Cross Canal and the northern four miles of Sacramento
24 River under the current applications you have before you.

25 Part of the 104 request, which will be even

1 further down the agenda under Tim Kerr's proposal, would
2 include the first phasing of relocating an irrigation
3 canal, which is -- right now the proposed location would
4 be 6 or 700 feet from the levee. We have assumed,
5 although we'd probably need to confirm that with your
6 staff, that the construction of that canal, although it is
7 part of the -- would be part of the common features
8 project and the reimbursement request, is not subject to
9 permit. That's our preliminary finding, because it is
10 well away from the levee. We can discuss that with the
11 Board and the staff later.

12 --o0o--

13 MR. BASSETT: Again, this is the hydraulic impact
14 analysis that Joe Countryman presented to you in December.

15 And one of the slide sequences that he was
16 looking for that I had taken out of the previous
17 presentation was, would flooding of Natomas provide
18 protection to homes along the Garden Highway? And the
19 conclusion was that flooding of Natomas would imperil the
20 Garden Highway and residences.

21 This is a photo of -- in the foreground is the
22 north levee of the Natomas Cross Canal, which is being a
23 significant flood fight effort I believe by DWR and the
24 Corps at that time. You can see the south levee of the
25 Natomas Cross Canal in the background. This is typically

1 what happens every time a basin fails; you begin to lose
2 the flood control structure from the inside wind and wave
3 activity.

4 --o0o--

5 MR. BASSETT: If houses were in the direct
6 location of a breach, as you can see here, they would also
7 be subject to either damage or flooding. It doesn't
8 really matter whether they're on the land side, as this
9 photo is, or over on the water side. It would still be
10 subject to velocity and flooding.

11 --o0o--

12 MR. BASSETT: Again, wind and wave damage to the
13 basin interior. This I believe is a photo of the Jones
14 Tract failure in 2003, I believe.

15 --o0o--

16 MR. BASSETT: And that was it. Those were the
17 only changes.

18 PRESIDENT CARTER: Okay.

19 MR. BASSETT: Other than that, Eric did a very
20 good job in presenting the project, the hydraulic
21 analysis, that we have concluded have no adverse hydraulic
22 impacts.

23 Overall the Natomas program, coupled with the
24 common features program, will result in a lowering of
25 water surfaces through a good stretch of the river along

1 the Natomas Basin.

2 That would probably be the end of our
3 presentation. Although we have seen I believe an earlier
4 version of the draft resolution. And we would like to
5 make some comments on the resolution when that comes up
6 for review, if we can reserve that a bit later.

7 PRESIDENT CARTER: Of course.

8 MR. BASSETT: Other than that, I can take any
9 questions that the Board may have.

10 PRESIDENT CARTER: Did you want to make any
11 comments with regard to the topic of risk shifting?

12 MR. BASSETT: I think Butch summarized it pretty
13 well in that -- you know, the existing basins that may
14 flood during an extreme event over and above, you know, an
15 event greater than the 1957 design profile and system
16 design may or may not flood, depending on their own
17 condition of their levees. Since our levees are presently
18 contained at 200-year flood, and those downstream or
19 upstream levees should not rely on any other basin in the
20 system flooding, our conclusion is that, you know, there
21 is no -- although there may be a perceived shifting of
22 risk, their flood control doesn't depend on our levees
23 failing. With our levees intact, their flood control only
24 depends on the condition of their own levees.

25 So that is the basis of the analysis that we have

1 done. We have designed so that our future flood
2 protection does not depend on failure of any upstream
3 levees, which in our analysis show some fairly long
4 reaches of levee that are overtopping or can overtop by
5 quite a bit in the more extreme events. As long as the
6 upstream levees or levees across the river from us are
7 raised to the 1957 plus three foot of freeboard, those
8 flows are still contained in the system.

9 In fact, I believe the modeling shows that even
10 up to a new 100-year flood profile, most of the system
11 contains the 100-year profile. It may not have freeboard
12 but at least contains the freeboard, contains the water
13 surface. So even in those conditions, there are no
14 failures in our model. We don't assume them to fail due
15 to geotechnical issues. We look at failure only -- or
16 even non-failure I guess -- the only mechanism would be a
17 failure due to an extended overtopping event. In
18 something bigger than a 200-year where you would have two
19 or three feet coming over the flood system on a levee,
20 odds are you could not flood fight something that large.
21 So that's why some of the analysis we show is, if you
22 assume a failure in an extreme event, on a 500-year order
23 of magnitude, that actually drops the water surface below
24 our designed 200-year event.

25 So we think we have a very conservative design.

1 We do not depend on other districts failing for that
2 protection. And, you know, it is something that, granted,
3 everybody I think is discussing the new risk and
4 uncertainty analysis tools as kind of a Pandora's box
5 that, you know, you can open it up and play with it, and
6 there's a whole lot of data that would need to go into
7 that for you to come to any sort of realistic conclusion
8 on how a levee would fail in a given system. Part of it
9 is, you know, the levees themselves are not consistent.
10 Whereas one levee would fail under one storm below the
11 crown, the next storm it took an overtopping event and
12 didn't fail. So the levee itself is inconsistent, and
13 it's tough to put that inconsistency in a model.

14 So undoubtedly this discussion will go on for
15 many more years as to the hypothetical failure or
16 non-failure and whether or not there is actually any shift
17 in risk from one basin to the other.

18 Other than that, are there any other questions?

19 PRESIDENT CARTER: Any questions?

20 BOARD MEMBER RIE: Yes.

21 PRESIDENT CARTER: Go ahead.

22 BOARD MEMBER RIE: In the draft EIR, there's a
23 description of probable impacts of projected climate
24 change. And SAFCA's conclusion was climate change issues
25 are unavoidable. So I was curious. Are you guys

1 proposing any mitigations or is that something you can't
2 mitigate for?

3 MR. BASSETT: There are climate change issues
4 which are related to air quality issues, things of that
5 sort, where those were discussed. And, you know, some of
6 that is unknown as to whether our project itself and all
7 the construction equipment, everything like that, will
8 have a long-term impact on air quality.

9 As far as climate change that may alter water
10 surface elevations, again, that is somewhat unknown. Some
11 folks have speculated that there may be increases in tide
12 levels. We have done an analysis that shows that the tide
13 levels don't much have an influence on the Sacramento
14 River system much upstream of Freeport because they are
15 dampened out on particularly the peak flows by the water
16 coming down through the system, so that there's not a
17 height differential that we would account for for a
18 climate change. If you're out in the Delta, yes, some of
19 the water surfaces may change significantly due to climate
20 change. But we don't think that a climate change will
21 affect the water surfaces next to our flood control
22 improvements particularly in the Natomas area.

23 BOARD MEMBER RIE: Okay. Thank you.

24 PRESIDENT CARTER: Mr. Brandt.

25 MR. BRANDT: First of all, thank you. I think

1 that implements the law about considering climate change
2 as one of the things that you're supposed to look at. So
3 thank you for that question.

4 My only point -- and I think it might be helpful
5 to have the Board's counsel comment on this -- I just want
6 us to keep in mind in this whole discussion of risk
7 shifting are what is the legal standard? I mean in other
8 words we're having to make judgments here. And, you know,
9 with Paterno, my quick impression is that the challenge or
10 the standard that we're looking at is we can't have any
11 unreasonable impact on other people's property interests.
12 There may be impacts, but in the whole scope of things I
13 hope -- Paterno doesn't say you can never improve the
14 system because you may hurt somebody else's and shift the
15 risk to somebody else. That's not what Paterno said.

16 So it might be helpful for the Board to hear from
17 their counsel about what the standard is that they're
18 trying to make a judgment on, what the balancing or how we
19 approach this kind of question on the risk shifting.

20 LEGAL COUNSEL CAHILL: I think typically in the
21 flood cases it is focused -- it does focus on
22 reasonableness. And I --

23 MR. BRANDT: Could you turn on your --

24 LEGAL COUNSEL CAHILL: I think in the flood cases
25 it does focus on reasonableness. And I think this Board

1 also always looks at the overall public interest.

2 PRESIDENT CARTER: Any other questions for the
3 applicant?

4 Okay. Ladies and gentlemen, let's take a
5 ten-minute recess. And we will continue with more of the
6 public testimony.

7 (Thereupon a recess was taken.)

8 PRESIDENT CARTER: Ladies and gentlemen, if I
9 could ask you to go ahead and take your seats, we'll go
10 ahead and continue with the hearing.

11 As a reminder, we're conducting a hearing on
12 Application No. 18159-2, the Sacramento Area Flood Control
13 Agency, Natomas Levee Improvement Program and Natomas
14 Cross Canal Levee Phase 2 Improvement Project in Sutter
15 County.

16 We had just heard from the applicant. As part of
17 public testimony, as I mentioned, we'd like to, if we can,
18 kind a group the members of the public who want to speak
19 in support of the project and then hear from opponents of
20 the project, and then any other persons.

21 I made an attempt to kind of get these cards in
22 order. So I'm going to call out names. And if I have
23 erred, please let me know.

24 And, again, I remind people, please fill these
25 out so that I know to recognize you. I'll endeavor to be

1 sure to give everyone an opportunity to speak their mind
2 with regard to the project.

3 The first card I have is Mr. Devereux.

4 And I also want to reiterate that the Board is
5 welcome to ask questions at any time during this process.
6 Once we have closed the public testimony portion of this,
7 there will -- we will not allow any new evidence to be
8 submitted or entered or presented to the Board. So this
9 is your opportunity to ask questions of anyone who is here
10 if you're unsure about certain facts or figures or
11 opinions.

12 I'm sorry. Mr. Devereux, please.

13 MR. DEVEREUX: Thanks.

14 President Carter, members of the Board. My name
15 is Paul Devereux. I'm the General Manager for Reclamation
16 District 1000. We're the local maintaining agency in
17 which this project is proposed.

18 I am here today to tell you that our district has
19 reviewed and endorsed the permit application with a
20 similar condition that you had from your staff, is that we
21 need to see and approve the final plans and specifications
22 for this project. I believe at the last meeting in
23 December, Mr. John Shiels, who's one of our district's
24 trustees, was here also in support of this project.

25 We're here today to basically urge you to follow

1 your staff's recommendation and approve this permit
2 application. We understand that our levees are in need of
3 help. As you heard from the Army Corps of Engineers
4 today, that there are some that believe we can't even pass
5 the 33-year flood. So if anything, it adds to the urgency
6 that this project and that these levee improvements be
7 done. We have 70,000 people that live in Natomas,
8 international airport, billions of dollars in property at
9 risk.

10 And I know there's talk of, you know, a
11 comprehensive plan that might be some generations away
12 from being implemented. But I think under any reasonable
13 scenario, the improvements of these levees will be part of
14 any future project. And I think, given the urgency and
15 given the risk, we need to move forward with these levee
16 improvements. So I would urge you to follow your staff's
17 recommendation and approve the permit.

18 Thank you.

19 PRESIDENT CARTER: Thank you, Mr. Devereux.

20 Any questions for Mr. Devereux?

21 Thank you very much.

22 Mr. Harper.

23 MR. HARPER: My name is Leslie Harper. I live on
24 Garden Highway at 3853 Garden Highway. And my purpose in
25 coming here today was to cover a couple of issues that

1 we're concerned with as homeowners along Garden Highway.

2 One of those issues is our well water, which is
3 the only source of water that we have.

4 Number 2 is the power lines that are being
5 potentially relocated to the water side of the levee,
6 which of course our homes are located on.

7 And I was concerned about that because, number 1,
8 is that we do not have any other source of water. And
9 if -- when you start putting in a 100-foot slurry wall, as
10 I understand it, on the land side of the levee, that can
11 very well interrupt the water stratas underground that
12 affect our wells. So, I'm concerned about that and would
13 like to see if those issues have been covered with
14 monitoring programs that will determine what damages that
15 may occur through seepage, will it actually contaminate
16 the water or even affect the quantity of the water that we
17 now have?

18 And also too, if those things are affected, how
19 quickly are they going to be responded to to correct them
20 so that we are not being without water for prolonged
21 periods of time.

22 The second issue being the relocation of pole
23 lines that are located now on the land side of the levee.
24 As I understand it, the Corps and the various agencies
25 that are in charge of this project are going to -- will be

1 possibly locating power lines across the front of our
2 properties, which will in turn remove trees, affect our
3 landscaping, driveways, and a great deal of damage can be
4 incurred to the front of our properties.

5 As a result of this, I was wanting to find out if
6 these particular type of relocations have been -- are they
7 being considered to -- that the agencies have the right to
8 relocate these facilities without contacting the
9 landowners? Do they have the right as a public utility to
10 relocate those on our property? Do you consider that the
11 rights that you have would not entitle the landowners to a
12 compensation that might be required to repair the damages?
13 And not only physical, but damages that would actually
14 exist because of the relocation of pole lines on to our
15 property.

16 So these are the two issues which I feel are
17 important that we would like to have answered, is to --
18 whether you assume that you have the right or do we have
19 to take the initiative to determine that?

20 Thank you very much.

21 PRESIDENT CARTER: Thank you.

22 Questions for Mr. Harper?

23 BOARD MEMBER SUAREZ: Yes.

24 BOARD MEMBER BROWN: Mr. Harper.

25 PRESIDENT CARTER: Ms. Suarez.

1 BOARD MEMBER SUAREZ: Thank you for coming today.

2 I was going to ask you, did you voice your
3 concerns with SAFCA during their environmental review
4 process and before they authorized their project?

5 MR. HARPER: This was brought up at the SAFCA
6 meeting, well, six or eight weeks ago, yes, before the
7 SAFCA board.

8 BOARD MEMBER SUAREZ: So you raised these issues
9 with them?

10 MR. HARPER: I'm sorry?

11 BOARD MEMBER SUAREZ: You raised these issue with
12 them -- with their board?

13 MR. HARPER: I did not make the presentation. We
14 had another member in our group that covered the point.

15 BOARD MEMBER SUAREZ: Okay. Thank you.

16 BOARD MEMBER BROWN: My question, Mr. Harper,
17 have you had the opportunity to measure the standing water
18 level and/or the pumping water level of your well? Do you
19 know what it is?

20 MR. HARPER: I haven't recently, but I have in
21 the past. And I know the depth, the quantity, and the
22 quality.

23 BOARD MEMBER BROWN: And what was it, the pumping
24 water level?

25 MR. HARPER: Pardon?

1 BOARD MEMBER BROWN: What was the water level in
2 the well -- the pumping water level?

3 MR. HARPER: My well is about 156 feet deep.

4 BOARD MEMBER BROWN: And the water level?

5 MR. HARPER: The water level, I'm not real sure
6 of that, because we haven't had a problem with pumping it
7 down. We have a quantity though of about 15 gallons per
8 minute.

9 BOARD MEMBER BROWN: For yard irrigation and
10 domestic purposes?

11 MR. HARPER: Yes.

12 BOARD MEMBER BROWN: Okay. Thank you.

13 PRESIDENT CARTER: Mr. Brandt.

14 MR. BRANDT: Along those same lines, sir. Your
15 wells are on the water side of the levee? And do they go
16 straight down or diagonal?

17 MR. HARPER: They go straight down as far as I
18 know, sir.

19 MR. BRANDT: And they're on the water side of the
20 levee. So they're being fed by the river presumably?

21 MR. HARPER: They're between the levee and the
22 river, yes.

23 MR. BRANDT: Thank you.

24 PRESIDENT CARTER: Any other questions for Mr.
25 Harper?

1 BOARD MEMBER BROWN: You would probably get
2 recharged then from both the levee and the river, I would
3 suspect, then.

4 MR. HARPER: I would assume so, sir, because I'm
5 sure that the water table is as high as the level of the
6 river in most cases, because the flows of water usually
7 come from the east to the west at this point, as I
8 understand it. And so the water in the river is actually
9 leveling -- the leveling of the groundwater is with the
10 level of the river.

11 BOARD MEMBER BROWN: Thank you.

12 PRESIDENT CARTER: Any other questions for Mr.
13 Harper?

14 BOARD MEMBER RIE: This question isn't for Mr.
15 Harper but for SAFCA.

16 There is provisions in your EIR for remediation
17 plans. Is this something that you guys have already
18 looked at?

19 PRESIDENT CARTER: Let's hold that question, if
20 you would, just write it down, because SAFCA will have an
21 opportunity to respond to these comments. And let's ask
22 those questions at that time, please.

23 Any other questions for Mr. Harper?

24 Thank you very much, Mr. Harper.

25 MR. HARPER: Thank you.

1 PRESIDENT CARTER: Mr. Howell.

2 MR. HOWELL: Hello. My name is Arthur Gibson
3 Howell III, 3551 Garden Highway, a fellow Garden Highway
4 resident.

5 Very interested in flood control. We support
6 flood control and flood mitigating circumstances, because
7 we realize that everyone in Natomas is our neighbors. And
8 I don't think there's a single person on Garden Highway
9 that wants to see anyone in Natomas flooded. I understand
10 that all of our properties by law and by code have been
11 brought up to a certain elevation, and Natomas has not.
12 But when they were built, it was based on what was thought
13 was the then current standards. And we do not want to see
14 anyone flooded. We're not just us against them. We're
15 not, "Oh, who cares about what happens to them as long as
16 we're safe." That's not the point at all.

17 I've experienced six floods in my 15 years of
18 living along the river. And it's my choice. I live along
19 the river for a reason. I get to hear all the aircraft go
20 overhead and I get to watch the beautiful river go by.
21 And sometimes it goes by under the house. But that's why
22 the house is built up.

23 But the issues that I think most of our Garden
24 Highway residents have are not so much flood protection.
25 We're all about flood protection. I mean if everyone

1 could be protected and it would be done in a sensible way
2 where we're not wasting hundreds of millions of tax
3 dollars, then we're all for it.

4 And as far as my thoughts and my thoughts with a
5 whole bunch of other Garden Highway residences, I wrote a
6 letter -- and I'm not sure if it was included in --

7 EXECUTIVE OFFICER PUNIA: It was, yes.

8 MR. HOWELL: So the letter was included.

9 And what I will try to do is just summarize the
10 main facts, because I realize you all are very busy and
11 it's tough to read everything that gets into it.

12 Now, freeboard, as required by the Army Corps of
13 Engineers, it is required the three foot above. And that
14 is what all the hubbub is all about now, why Mayor Heather
15 Fargo is upset, because she thought that Natomas was going
16 to be at least given 30-year flood protection. But
17 because -- and I guess three stretches it's four inches
18 below. Now, all of a sudden they don't have 30-year flood
19 protection. So that's why everything has per se hit the
20 fan.

21 So that freeboard is three foot on top of what
22 they think the maximum elevation will be during a flood.
23 And according to everything I've been able to review, it's
24 the same three-foot freeboard for our little narrow river
25 as it for a two, three-mile-wide bay or an ocean or a

1 giant lake. And I've lived on the Sacramento River for 15
2 years and never had a wake over a foot during a flood.
3 Now, in the summertime when the wakeboards are going by,
4 yeah, three, four feet. But that's when the river's low
5 and it just erodes my bank and, oh, well.

6 But during a flooding event, where they're really
7 worried about the freeboard, that three extra feet, I
8 have -- during the '90 Sierra flood my dog got lost and I
9 put on a pair of chest-high waders and walked all up and
10 down the Garden Highway area in the flood, never had a
11 wave to deal with, never had current to deal with, nothing
12 that the Army Corps of Engineers say is the reason for all
13 this extra freeboard.

14 I just feel it's just necessary to make a check
15 on a piece of paper that this fits our national
16 requirements, which as I feel is a one-size-fits-all
17 requirement.

18 Now, the Natomas Cross Canal is a completely
19 different story, that if there was flooding in Sutter
20 County that just inundated the entire area in Sutter
21 County, then that would be like a giant lake. And the
22 Natomas Cross Canal obviously needs that kind of
23 freeboard, because you're going to be getting the wind
24 from the north to the south or from the south to the
25 north, and that's a whole different story.

1 But along Garden Highway, if we could just get
2 the Army Corps of Engineers to maybe rationalize how much
3 freeboard is necessary, then this giant emergency of
4 shutting down all development in Natomas and everyone's
5 insurance rates tripling might not be as big of an issue.
6 Because they're talking four inches on top of a
7 theoretical 30-foot flood, but not really 30-foot flood.
8 We're talking 3 foot on top of the 30 foot because of
9 these waves that they're saying might just happen. Which
10 don't happen.

11 Okay. Sorry about that.
12 Okay. One thing I would like to ask -- we have a lot of
13 engineers in the room, and this would be a great time to
14 find this out. Because I have been trying to do research
15 and find out, and I keep on getting conflicting
16 information. I would like to put into perspective what
17 the 1997 flood was considered compared to a 100-year
18 flood. Because I have read it was a 100-year flood; it
19 was a 150-year flood; no, it was way below a 100-year
20 flood. I just -- it was at a certain level. It should be
21 at an engineering standpoint you can compare that, what
22 was that considered? Because 1997 flood was bad. But
23 living on Garden Highway during that time it didn't even
24 come close to the freeboard level anywhere that I saw.

25 And as a side note, I have a sea plane and I

1 really enjoyed flying around during that time and watching
2 everything, hoping that I could save some damsel in
3 distress, but I couldn't.

4 (Laughter.)

5 MR. HOWELL: And if we also want to compare that
6 against the 1986 flood -- because that obviously was also
7 another giant event. I was not here for that, but I read
8 a lot about it. And I hear that was even worse, but more
9 because of Folsom Dam problems, which I think now are
10 going to be solved, which is very nice.

11 So, I'd love to see in writing what the '97 and
12 '86 flood were, because there's a datum point as to how
13 high it got -- and I realize it's not that simple -- but
14 something comparing that to what -- because all the charts
15 that we show about what a hundred-year flood is, what a
16 200-year flood is -- what happened then.

17 And then I would also like to see just some
18 simple facts about how much seepage actually occurred
19 during the 1997 and 1986 flood, just some proof about how
20 much seepage actually went through, because that I think
21 the engineers have convinced me is the greater danger
22 obviously than overtopping. And obviously in my mind the
23 freeboard is not even an issue. But the seepage is the
24 greater danger. So I'd like to see something about how
25 many gallons per minute were flowing through that we were

1 worried about as to why we want to spend after a billion
2 dollars to fix this seepage problem.

3 Lastly -- I'm sorry that I've taken so long. A
4 few nights ago on PBS they had a special, "A Valley at
5 Risk." It was the most amazing special I've ever seen in
6 my life. Everyone should watch it. I recommend it. It
7 was not a liberal thing. It was not an environmental
8 thing. It was just the facts.

9 And they really pointed out a few things, that
10 what we're doing and -- we're throwing money at a problem.
11 It's much like -- I was in the military. I was in the air
12 force. And you can either spend hundreds of thousands of
13 soldiers on a battle or you can maybe get some intell and
14 avoid the battle. And that way is just so much better
15 off. And they're talking about improving watersheds
16 upstream.

17 The SAFCA report, I didn't see anything about
18 watersheds upstream, improving using those.

19 And then they're also talking about improving the
20 solo in the Yolo County Bypass -- solo in the Yolo County
21 Bypass and improving the weir system there.

22 The SAFCA report, as I recall, was about a
23 paragraph that -- it's not in their purview, which I
24 understand, it's not their jurisdiction. But this is the
25 jurisdiction. This is the Central Valley Flood Protection

1 Board. Thank you. Well, it used to be The Reclamation
2 Board, which is easier to say.

3 (Laughter.)

4 MR. HOWELL: So this is your purview, along with
5 the Army Corps of Engineers. I'm assuming you're the two
6 big kahunas on this. And by improving what we can do
7 upstream could really help us from having to spend
8 hundreds of millions, half a billion plus, whatever, to
9 just, you know, put your finger in the dike.

10 And that's all I have to say. Thank you.

11 Any questions?

12 PRESIDENT CARTER: Thank you, Mr. Howell.

13 Are there any questions for Mr. Howell?

14 Thank you very much.

15 PRESIDENT CARTER: Mr. Foley.

16 MR. FOLEY: Good afternoon again, Board.

17 I'd like to make a point that before The Rec

18 Board was established in the Central Valley, the

19 reclamation districts would raise their levee to protect

20 themselves to make sure -- or try to make sure during the

21 next water -- next high water they wouldn't be flooded.

22 But what happens when one party raises a levee to

23 make sure they're not flooded, they are making sure that

24 someone else's levee is going to be flood. And that was

25 called the levee wars.

1 The Rec Board was established, the predecessor to
2 this Board, to prevent levee wars. Because when one RD
3 raises their levees to make sure that during the next high
4 water they won't be flooded, they are making sure that
5 another party is going to be flooded. That is called the
6 levee wars.

7 When SAFCA raises the south bank of the Natomas
8 Canal to make sure during, say, a 200-year event -- when
9 they are making -- when that raise makes sure that they're
10 protected against a 200-year event, that raise also makes
11 sure that RD 1001 will receive that water, they are making
12 sure that someone else is going to receive that water.

13 So I think The Rec Board has a responsibility
14 here to protect 1001. That is -- there is no way
15 possible if they're talking a 200-year event -- the flow
16 is a 200-year event, that when that occurs -- it's a cubic
17 feet per second -- when that occurs, what SAFCA is doing
18 with this proposal, they are making sure they will not be
19 flooded. But at the same time they are making sure the
20 water is going to go over the north bank, because the
21 water has nowhere else to go.

22 So I think the Board needs to protect the
23 landowners in 1001. That is what the Board was
24 established to not allow -- that's called the levee
25 wars -- not to allow one side to push their levees up.

1 SAFCA -- I mean it seems reasonable if you're
2 SAFCA, to protect SAFCA. But I think The Rec Board, the
3 State of California, DWR should have solutions that
4 protect Natomas and protect 1001. That is what this Board
5 is established to do.

6 The water has to go somewhere. That's a cubic
7 feet per second. The tiny little -- the water -- if the
8 water doesn't go this way, it goes that way.

9 So SAFCA is making sure -- during the next around
10 200-year event they are making sure the water doesn't go
11 this way, they're making sure the water goes that way.

12 Thank you.

13 PRESIDENT CARTER: Any questions for Mr. Foley?

14 VICE-PRESIDENT HODGKINS: Mr. Foley, I want to be
15 sure I understand what you're saying. Are you saying that
16 you think SAFCA should pay to raise the levee on the other
17 side?

18 MR. FOLEY: No, I'm saying The Reclamation
19 Board -- this Flood Protection Board, the State of
20 California should protect 1001 and protect -- you have to
21 protect the integrity of the system. When you let that
22 happen, you're letting that happen to another party to the
23 system that's your job to protect. I'm not saying what
24 SAFCA should do. I'm saying what the Central Valley Flood
25 Protection Board should do.

1 VICE-PRESIDENT HODGKINS: Okay.

2 PRESIDENT CARTER: Any other questions for Mr.
3 Foley?

4 Thank you, sir.

5 Mr. Schneider and then Mr. Tully.

6 MR. SCHNEIDER: Thank you. I'm J.F. Schneider.

7 I live on Garden Highway. I believe you also have a
8 letter of mine that I handed out earlier. I just want to
9 make a couple of points.

10 That although I don't have a PE after my name and
11 engineers believe that I'm ignore and the Mayor stood up
12 last month and told you that I was putting people's lives
13 and property in danger, and SAFCA's PR consultant has
14 stated that I'm a misbehaving child, nonetheless I'm here
15 to talk to you for a minute or two.

16 I'm surprised that nobody did a very good job, I
17 felt, of explaining this shift of risk, and have a way of
18 doing that that maybe will work for you.

19 We do all of risk based on statistics. And
20 indeed that's how we determine a 100- and 200-year flood,
21 is a percentage. If you have a brand new garden hose and
22 you're running water through it a certain rate, a certain
23 pressure, and it's 50-feet long, every individual foot has
24 a 1-in-50 chance of bursting at any time if it's all the
25 same brand new hose.

1 Over time somewhere that hose is going to get
2 warn and it's going to break. So that if you see that
3 it's not meeting your needs, its wearing, I'm going to
4 lengthen ten feet of the -- or I'm going to strengthen ten
5 feet of the hose. Excuse me. So however I do it, I
6 strengthen ten feet of the hose. What I've done then is
7 shift the risk to the other 40 feet. And so the remaining
8 40 feet, instead of having a 1-in-50 chance, now have a
9 1-in-40 chance, or a 20 percent greater chance in this
10 example of bursting. And that's how you do it. You
11 don't -- I can't point to which foot will burst, but I
12 have shifted some of the risk to the other less strong
13 parts of the hose. It's the same thing on the levee
14 system.

15 And that's exactly what the project does. And of
16 course that is your job, is to make sure that that doesn't
17 happen, that you don't shift risk to anybody else. That
18 is the principal reason the Board was put together in
19 whatever name it's called.

20 The remaining comments I think you can read. I'm
21 concerned also that this project is moving forward and
22 you're planning on approving it even though it's not a
23 complete application. And, in fact, your staff states one
24 of the conditions you have to get around to getting us the
25 remaining documents and engineering documents. And I

1 believe the entire geotechnical documents are missing.

2 And I'm obviously not an attorney either. I don't think
3 that makes me an idiot. That's probably the opposite
4 direction. Nothing personal against attorneys.

5 The statute does require you to act within 60
6 days of receiving a complete application. And you
7 determine when it's complete. You've already determined
8 it's not complete because you have a condition in it that
9 says that it isn't and you have to finish the rest of the
10 stuff. So it makes an interesting question: Can you
11 approve an application that is not complete?

12 And, you know, when we put all of this stuff
13 together, we're really moving at warp speed on a small
14 smart of the entire system. It's being driven not by
15 facts and not by sanity but rather by politics. Now, I
16 understand that you're a political board, you're political
17 appointees, I get that. But your staff isn't. And I was
18 kind of disappointed to see that your staff listed that,
19 yes, there are indeed shifting of risks, which has
20 prevented what you're supposed to prevent, but nonetheless
21 they went ahead and approved it as well -- or recommended
22 approval. So I'm concerned about that as well.

23 Irregardless, you have my letter.

24 Anything I can answer for you?

25 Thank you.

1 PRESIDENT CARTER: Any questions for Mr.
2 Schneider?

3 Thank you, sir.

4 Mr. Tully.

5 MR. TULLY: President Carter, Board. I do want
6 to say what a pleasure it is to actually be able to talk
7 in front of this Board and actually see your staff see
8 both sides of the story. Unlike what we went through with
9 SAFCA, I felt that we've gotten a much fairer treatment at
10 least on the surface of the issues being brought out. So
11 I do appreciate that.

12 I do want to just say real quickly, when Les was
13 up here talking about his well, I would remind the Board
14 that the last time you met I also spoke on that issue and
15 apprised you of that very situation, that it does affect
16 probably approximately 120, 150 homes on Garden Highway
17 that their sole source is water.

18 And the wells vary in different depths and the
19 different water. But the basic thing is that the slurry
20 wall will cut off one side of our water source.

21 And it sounded like one of the Board members was
22 confused that possibly we might be drawing our water out
23 of the river. We don't. I don't drink river water. I
24 drink water that comes out of an aquifer. That aquifer is
25 going to have a slurry wall in the middle of it.

1 On a specific point -- and I won't bother going
2 over stuff that we've done many times. But the new chart
3 that was in the attachment on your staff report,
4 Attachment No. 4 that was referenced, I think was one of
5 the best documents that have come out. And I don't
6 believe this ever came out from SAFCA. SAFCA obviously
7 presented it to this Board and it made it into the staff
8 recommendation. And it is really a great telling
9 document, because it shows what used to be --

10 PRESIDENT CARTER: Mr. Tully, could you maybe
11 describe the chart.

12 MR. TULLY: Well, I'm looking at the top. The
13 name is -- I think it's Attachment 4. It's "Water Surface
14 and East (Left) Levee Profiles, Sacramento River, Mile 95
15 to American River." And it's the one with the funny
16 orange dots and the line.

17 BOARD MEMBER RIE: This one.

18 MR. TULLY: It looks just like this.

19 The chart looks like the stock market a few years
20 ago. Everything was going up.

21 SENIOR ENGINEER BUTLER: It's the third of the
22 six profiles.

23 MR. TULLY: Fantastic.

24 PRESIDENT CARTER: It's on our page 13 and in the
25 bottom chart?

1 MR. TULLY: Can you hear me if I straddle
2 between?

3 Well, the first sheet is -- it's showing the top
4 line. This line is the east levee. So that's what Garden
5 highway is currently.

6 The dotted line is the 1957 standard that
7 everything was based on.

8 The line you're seeing here is approximately
9 where my house is. And my house is just one of a hundred
10 plus houses on Garden Highway. There seems to be some
11 belief in the past that we're just rogue people that kind
12 of built our houses out there without any wherewithal and
13 to different standards.

14 It's actually Sacramento County ordinances
15 telling us we could build our houses and what level. And
16 that level was based on that 1957 standard. And I have an
17 elevation certificate that says that my house is two and a
18 half feet above that. And then I won't flooded at a
19 hundred years.

20 So I've approximately plotted where my house is.
21 That's what this dot is. You can't see it right here.

22 So my house falls exactly between a 100-year
23 flood and the 200-year flood. Of course even in the '97
24 flood, the water was no where near my house. It was two
25 feet below it. So I completely agree with Mr. Gibson's

1 question as to what that actual flood was.

2 The point being here is you talk about that you
3 don't understand how the risk is being pushed? The risk
4 is most definitely being pushed. If you look at this
5 line, you can see that the new design that is coming out
6 of this puts us at risk, puts everybody at Garden Highway
7 at risk, persons and property at risk.

8 The design, according to your own staff, Mr.
9 Butler, we will increase the design. The design has been
10 increased. Therefore, my house has now shifted below the
11 200 flood mark. Now, what am I talking about? How can I
12 say that? If you turn to the next page, you'll see that
13 the top line -- if I can do this right.

14 And this is the next chart, that talks about the
15 west levee. The west levee being the Yolo County side.
16 If you follow that line, the interesting thing is is that
17 that line actually goes below the 100-year level. So I
18 look at this and think, well, how do we model something
19 that in fact the levee on the other side is lower than the
20 model? Shouldn't the model take a dip right where that
21 levee is lower? Shouldn't water be spilling into Yolo
22 County at that point in time? Isn't that effectively a
23 weir that's a release of pressure that stops my house from
24 flooding?

25 Now, turn back to the other model. I've marked

1 that.

2 So right here, lowest Yolo County point. If I
3 extrapolate that out, and I would -- I'm not going to do it
4 myself. I'll leave it to your engineers. But I can tell
5 you by looking at this -- and I'm a computer science major
6 on many companies -- that that puts me below the 200-foot
7 floodplain. I'm below the 200-foot because that water's
8 going to be released out into Yolo County.

9 But this design is being built up. The lines are
10 being moved, definitely. There's the 1957 line. It's on
11 the bottom. Everything else is above it now.

12 My house, which used to not even come close to
13 flooding, is now at risk of flooding. Your own staff in
14 previous meetings, Mr. Countryman has said it in previous
15 meetings, that there is a risk. It might be one-tenth or
16 whatever, but there is a risk. And what we're asking on
17 Garden Highway is that there should be appropriate
18 mitigations put in place to be able to handle this. And
19 that's what we're asking for. We're not asking for no
20 flood control. We don't think that would be appropriate.
21 And we want flood control.

22 But we want to make sure that we either have an
23 ability to raise our houses or we have an ability to be
24 able to get clean water. Because if I can't get clean
25 water, I can't live in my house. It's a county ordinance.

1 I have to have clean water. I have to have water. I
2 can't have fire protection without water. There's nothing
3 in the SAFCA report that specifically addresses that. We
4 had asked for studies. There was no well studies.

5 Well, I'll leave you with that.

6 Thank you very much.

7 BOARD MEMBER RIE: Question.

8 So your house is on the river side of the levee?

9 MR. TULLY: Correct.

10 PRESIDENT CARTER: Is your mike on?

11 BOARD MEMBER RIE: Sorry.

12 Your house is on the river side of the levee?

13 MR. TULLY: Correct.

14 BOARD MEMBER RIE: And you're saying that you're
15 outside of the 100-year floodplain? Your house is above
16 it?

17 MR. TULLY: Correct, yeah. We were all given --
18 as a way of example, maybe to illustrate. The elevation
19 certificates basically approved the height of my house.
20 So my house -- you can actually put a house into a flood
21 area but raise it. So, for example, after December 31st,
22 2008, somebody could build in Natomas and build it 20-feet
23 high and they're going to be above the flooding area.

24 So our houses were all based on an elevation that
25 was set way back when.

1 This is the ordinance that passed in I think 1978
2 by Sacramento County. And "First floor elevation, no
3 building or structure designed for human habitation shall
4 be erected, altered, enlarged, removed," you know, blah,
5 blah, blah. According to the first floor elevation, no
6 lower than the required by Sacramento County. So that was
7 a fixed -- that was a definite placement, and houses were
8 put higher than that. Now, some of them might have been
9 put higher --

10 BOARD MEMBER RIE: What's the elevation of your
11 house?

12 MR. TULLY: My house is -- I have it in here
13 somewhere.

14 Well, as you can see on the chart, I think it's
15 34.5 feet.

16 And I'd like to advise this Board, if you haven't
17 taken a ride on the Garden Highway, take a look. My house
18 is pretty well protected. I'm high up. Our neighbors,
19 the people that I'm here voicing for, are much worse.
20 There are people that are much worse than this. And
21 there's no money, that I'm aware of, for them to raise
22 their houses with.

23 BOARD MEMBER RIE: Okay. Thank you.

24 MR. TULLY: Thank you.

25 PRESIDENT CARTER: Mr. Tully, this may go to what

1 you just said. But I was curious as to what you -- what
2 your opinion is of appropriate mitigation for putting
3 those houses at risk, assuming that's what's happening.

4 MR. TULLY: Well, I think -- you know, you look
5 at -- I have a real estate company, so I've had a little
6 of experience raising houses and doing stuff like that. I
7 think some of houses that are on stilts could be raised
8 for fairly cheap money compared to the overall cost of
9 this project. So I would think that either some budget of
10 money or some level of low interest loans or some
11 mitigation needs to be addressed. There's absolutely
12 nothing there.

13 There has been stuff maybe in the past for
14 various floods and there was loans that were put in place.
15 And I'm sure your staff can speak better to that than I
16 can. But in my 12 years of living on Garden Highway
17 there's never been that kind of money that I've been able
18 to use. When this was brought up, is the first thing that
19 we brought out to SAFCA.

20 And then on the well issue, a similar thing would
21 be either have money to test -- or have a way to test the
22 wells or, in fact -- here's a crazy concept -- provide
23 city water. The city surrounds us. There is literally a
24 city less than a mile from my house and they have city
25 water. But we can't get it.

1 PRESIDENT CARTER: Okay.

2 BOARD MEMBER BROWN: Does the reclamation
3 district out there address this issue? What was it,
4 Reclamation District 101?

5 MR. TULLY: It's Rec District 1000, I believe.

6 BOARD MEMBER BROWN: Or 1000, yeah.

7 MR. TULLY: Well, I wasn't even going to bring
8 that up, but that gets into even more curious issues. We
9 do pay on our property taxes Rec 1000 for protection. And
10 they -- you know, they've been part of the discussion I
11 think through SAFCA. But, no, nothing specifically. And
12 if I'm wrong, I would love to -- I'll stay here and make
13 sure somebody can correct me and tell you --

14 BOARD MEMBER BROWN: Is that run by a board of
15 directors?

16 MR. TULLY: Sorry?

17 BOARD MEMBER BROWN: That's run by a board of
18 directors?

19 MR. TULLY: I'm not aware.

20 EXECUTIVE OFFICER PUNIA: Yes, that answer is
21 correct, it's run by a board of directors. Paul Devereux
22 is the general manager sitting here.

23 PRESIDENT CARTER: Any other questions for Mr.
24 Tully?

25 BOARD MEMBER SUAREZ: I do, Mr. President.

1 You and your neighbors, is it a possibility that
2 you would consider paying more in the assessment in order
3 to fund your local reclamation district to do the
4 improvements they have to do on the side of the levee in
5 order for you to have no worries?

6 MR. TULLY: Well, I think -- we are paying right
7 now. We pay both the SAFCA --

8 BOARD MEMBER SUAREZ: I mean more.

9 MR. TULLY: What's that?

10 BOARD MEMBER SUAREZ: I mean it seems that
11 probably needs -- there's a need of funding in order to
12 make improvements on that side on the levee. I mean if
13 that's --

14 MR. TULLY: No, I -- whether that -- and I know I
15 disagree with your staff on this. But whether that
16 levee's there or not, I'm still in water. So improving
17 the levee doesn't necessarily help me. So I don't know
18 that I would --

19 BOARD MEMBER SUAREZ: Wouldn't it help deal with
20 the alleged perhaps risk shifting that supposedly is
21 occurring?

22 MR. TULLY: Can you say that again. I'm sorry.

23 BOARD MEMBER SUAREZ: Wouldn't it help deal with
24 the speculative risk shifting that is being brought up
25 today --

1 MR. TULLY: Well, I'm sure --

2 BOARD MEMBER SUAREZ: -- basing that --

3 MR. TULLY: -- I would think it's one way to
4 start approaching it, yeah. I would think that Yolo
5 County and Sutter County would probably look at that also.
6 I think -- I guess that's the point, is that there hasn't
7 been that discussion.

8 BOARD MEMBER BROWN: What's your estimate now of
9 your protection, one year and what?

10 MR. TULLY: I would say -- for my house as to
11 when I will flood and when I won't flood?

12 BOARD MEMBER BROWN: (Nods head.)

13 MR. TULLY: I would say that I will flood
14 somewhere right over a hundred years.

15 BOARD MEMBER BROWN: And what's the estimate now
16 on the other side of the levee, on the Natomas side? One
17 in 33?

18 MR. TULLY: Well, it depends on who you believe.
19 And what I mean by that -- and I'm not trying to be funny
20 on it -- it's that by SAFCA's standards the levee right
21 now -- the top of the levee is at 200. But if you believe
22 the Army Corps that says you have to have three feet of
23 freeboard, here's top of the levee for Natomas.

24 BOARD MEMBER BROWN: All right. You're saying
25 you have a hundred-year protection without any freeboard?

1 Is that what you're saying?

2 MR. TULLY: Well, if there was a need for
3 freeboard, my house is going to be the freeboard. The
4 waves would be hitting my house.

5 So the current levee is right here, which the 200
6 line and the levee intersect right there. So based on
7 what SAFCA is showing, water could be at the top of the
8 levee. Their changes for this line is to in fact get
9 certification by the Army Corps that they've added the
10 three feet of freeboard.

11 I am actually now effectively below that 200. So
12 what will be given to Natomas is not being given to me,
13 whereas I used to have it. And I know I live in a river.
14 But you all have to understand that we built it at the
15 heights that we believe the water wouldn't affect.
16 There's many houses throughout the State of California
17 that are either in water or on water. And it can be done,
18 it can be engineered. And the problem is is that we all
19 believe these numbers and now they've changed.

20 VICE-PRESIDENT HODGKINS: Your property is
21 encumbered by a flood easement; is that correct?

22 MR. TULLY: I would assume so.

23 VICE-PRESIDENT HODGKINS: Have you ever read it?

24 MR. TULLY: No.

25 VICE-PRESIDENT HODGKINS: Do you have any idea

1 what it says?

2 You see, if there's a flood easement, then at
3 some point the state I think, or RD 1000, acquired the
4 right to flood that property.

5 Now, to ask them to pay to raise your house is in
6 effect asking public agencies to pay twice.

7 And I think it's unfortunate with all of the
8 Garden Highway homeowners that we didn't do a better job
9 20 years ago in explaining the uncertainties associated
10 with flooding, but we didn't. And you now find yourself
11 in an area where unfortunately because this is a flood
12 easement, my opinion is that the state has the right to
13 flood you without further compensation. And I don't know
14 if that's true or not, but certainly that's the way it
15 looks to me.

16 MR. TULLY: Well, my response to that is the
17 information we were given was no different than the
18 information that was given to Natomas. I mean you
19 essentially have told Natomas in the past that they had a
20 hundred-year flood and then pulled it back. And now we
21 are being put into jeopardy in order to improve and
22 provide protection for a different public. So how do you
23 decide who gets what?

24 Obviously we want Natomas to be protected.
25 Nobody's against that. And if you look at your overall

1 budget, you know, as state workers, as politicians, you
2 have to look at this and see the costs and say what really
3 makes sense here? It doesn't make a lot of sense for you
4 to sit up there and say that the state can just
5 arbitrarily flood me. A lot of people will have issue
6 with that. I mean you could say the same thing for
7 Natomas because the whole thing was built below levees.

8 VICE-PRESIDENT HODGKINS: But the difference
9 there is when the levee was built, they didn't acquire a
10 flood easement on Natomas. They did acquire a flood
11 easement so that they could convey water down the channel
12 you live in.

13 And I think from my standpoint at least, that's a
14 significant obstacle that you have to overcome here in
15 convincing me that we should tell SAFCA and the state that
16 they should pay money now to raise your house further.
17 You still have 100-year flood protection, which is what
18 they told you you had when you moved in there.

19 MR. TULLY: One would hope. But we can't really
20 define a hundred-year, it seems, so I'm not quite sure.

21 My last point -- and I don't want to get into any
22 kind of argument, because I do appreciate your position --
23 is that you have to remember that the easement that was
24 put in place -- and I haven't read it, and I will assume
25 it's there because you certainly have more knowledge on

1 this than I do -- that in fact knowing that we were told
2 at the heights to build. We were told, "This is the
3 height. You must be above this level." It's a county
4 ordinance. It's documentable. I was able to go back and
5 find it quite easily. So I agree with you, but we did
6 what we were told. And now the system -- I'll quote the
7 staff -- the system is being improved. It's being -- the
8 design is being improved.

9 So these lines have changed.

10 And with that, thank you.

11 PRESIDENT CARTER: Thank you, Mr. Tully.

12 Mr. Thayer and then Mr. Pineda.

13 MR. THAYER: Good afternoon. Congratulations on
14 your name change. And we'll eventually all get it right.

15 I first have to say that I'm speaking for myself
16 and not with any relationship to the job that I hold,
17 which is with the State, but as another resident on the
18 Garden Highway at 6645. Again, my name is Paul Thayer.

19 I think Pat Tully did a great job of describing
20 most of what I wanted to say. I want to paint some of the
21 same picture and maybe with a different paint brush.

22 But to respond to a couple things, first with
23 respect to the question about where he was with respect to
24 the existing flood proofing that's provided for with the
25 existing levee. I think his basic point is that, you

1 know, he's above the 100-year level and so one that was
2 established by the county as providing for the safety of
3 the residents and appropriate in terms of looking at
4 public safety. But the existing levee system doesn't come
5 close to threatening him because it can't safely pass
6 water that's above 33 feet, according to the Corps,
7 different levels depending upon who you talk to.

8 So what would happen as a result of this project
9 is that the levee can safely pass a much higher level of
10 water than presently is the case, and that that will get
11 him.

12 With respect to Board Member Hodgkins' points
13 about the easement. We did read that easement when we
14 moved in. I haven't read it in a long time. But I'm sure
15 Mr. Hodgkins is aware of the Cache Creek settling basin
16 litigation in which the Court found that an easement
17 purchased there with respect to the ability of the state
18 or whatever agency deals with that settling basin, where
19 that agency had bought an easement over the land within
20 that settling basin which allowed for flooding. But when
21 improvements were proposed to change the capacity of that
22 settling basin, the courts ruled that in essence the
23 easement previously purchased didn't cover that situation,
24 that it covered the situation of the improvements that
25 were contemplated at that time.

1 And I'm not an attorney. I haven't gotten back
2 and looked at that easement in a while. But I don't think
3 that easement necessarily either fairly or legally, you
4 know, says that you can do whatever you want at that point
5 and the property owner shouldn't be concerned.

6 And the last point along those lines is that when
7 you look at CEQA -- and I understand this agency's not the
8 lead agency for CEQA -- it talks about mitigating impacts.
9 It doesn't say, well, that impact doesn't count if there's
10 a flood easement. There are people with houses out there,
11 people's homes that will be affected by this project. And
12 I think CEQA -- there's no exemption from that kind of
13 calculus, that you should be looking at those impacts and
14 paying attention to those regardless of whether or not
15 there's an easement there.

16 I had a couple other points. But I want to make
17 sure it's clear that I'm mostly interested in this flood
18 issue. I think with respect to the wells, I have some of
19 that concern. And being as close to the river as I am, I
20 also presumed that my well's being restocked with water
21 from the river. But I don't know that's the case. And I
22 lived in Rio Linda long enough to know that you can have
23 clay layers that are just impervious. And if that clay
24 layer's between the river and where my well's drawing
25 water, there's going to be no river water going into my

1 aquifer. And you just don't know what the situation is
2 until you've done the study and looked at the question.
3 It's answerable, but I don't think that's been done. And
4 I think that's what Pat and others have requested, is just
5 let's look at this issue and see if there's going to be
6 one. If there isn't one, there isn't one and it's not a
7 big deal. But until we know, it is a big deal.

8 So the essence of my -- I have a couple
9 overarching principals. First as with the last couple
10 speakers, I think Natomas needs to be protected from
11 flooding. Those homeowners deserve it. They thought they
12 were buying property that was safe and it wasn't. And so
13 this project should go forward. But I think it should be
14 a win-win and not a win-lose. And I think people along
15 the Garden Highway lose as a result of this. And that,
16 you know, is not the right thing to do.

17 The essence of my points is that this project is
18 proposed because existing levees will not sufficiently
19 protect Natomas from -- pick your level -- 100-year,
20 200-year, 33-year flood. This is because the levees
21 aren't structurally capable of containing floods at these
22 levels. When these substandard levees break, the water
23 around our houses go down and it doesn't reach the higher
24 damaging levels.

25 If the levees are strengthened, the levees are

1 going to contain higher levels of water and it will be
2 higher around our house. Again, we're not arguing that
3 that shouldn't happen to save Natomas. We're just saying
4 mitigate those impacts.

5 The problem is that when you listen to the model
6 described to you in terms of calculating hydraulic
7 impacts, as they said to you very openly, the model
8 presumes the levees won't break. And to me there's a
9 great conundrum here. It's sort of almost Orwellian.
10 This project is going forward because we can't know that
11 the levees are going to stand up. In fact, we've got
12 pretty good evidence that they won't stand up. But for
13 the purposes of calculating hydraulic impacts and whether
14 the water is higher around our property, they use a model
15 that says, "We presume those levees won't break." And if
16 that's the case, you guys will already flood out there and
17 therefore you shouldn't be concerned about this project.

18 Well, if the basis of the model is that there's
19 no levee breaking but the basis of the project is that the
20 levee might break, there's a disconnect here. And it's
21 not fair. It reminds you of the expression about "lies,
22 damn lies, and statistics," that you should use the same
23 basis of calculation in determining the impact to us, the
24 hydraulic impacts, that you used for deciding whether or
25 not you need to raise the levees. And everyone here

1 agrees -- everyone in this room I think agrees that the
2 levees need to be strengthened, and that's because of this
3 risk. But that risk is exactly the protection we
4 presently have. And there's a direct linear connection
5 between strengthening these levees and allowing them to
6 pass higher water and increase damage to us. And to use a
7 model that ignores that, that just presumes that there'll
8 be no levees that will break until six inches over the top
9 of the levee, flies in the face of the very purpose of
10 this project, but also in terms of reality, what's the
11 real world out there?

12 The last two major breaks in this valley -- or in
13 the Sacramento area were in '86 at Linda and at Arboga in
14 1997. Did those levees break because of overtopping? No.
15 They broke, they failed long before the water reached the
16 top. They failed in the sort of circumstances which
17 protected us. And, again, I'm not in favor of people
18 dying and levees breaking. But the real world situation
19 does not follow what that model says when the model says
20 these levees won't -- you should count on them not
21 breaking in terms of deciding whether or not we're
22 protected or not.

23 And I should point out that in '97, the water at
24 Verona reached about 41 feet and it was predicted to go
25 one foot higher. Once the levee broke, it dropped a foot

1 immediately. So it had this very immediate effect in
2 terms of damage to our property.

3 So, a couple other little points, but that's the
4 main issue.

5 There's been some discussion about freeboard.
6 And when you read the staff report both for this Board and
7 for SAFCA, it seems to make light of that, saying it's a
8 technical requirement of the Corps. Well, the Corps
9 doesn't come up with this requirement for some specious
10 technical reason. It's because this freeboard has a real
11 beneficial impact for levees. It can deal with things
12 like wave overtopping, it can deal with erosion. And, in
13 fact, the stability that's given a levee by having the
14 extra weight of the three feet on top of it is another
15 reason the Corps has emphasized this three-foot freeboard.
16 So it's not a technical requirement. It has a real-world
17 benefit for stability of these levees. So raising it up
18 by that amount increases the stability and the ability of
19 the levees to pass this water.

20 With respect to SB 276, there's been discussions
21 of this before both the SAFCA board and the staff report
22 here. And the allegation is that you're prohibited from
23 addressing hydraulic impacts because of this bill. There
24 are two points I'd like to make about that:

25 The first is the provisions in this bill that

1 deal with it are not in the statutes. They're in the
2 findings. And the findings in a bill don't have a
3 compulsory effect. They're just there to explain the
4 reasons why the rest of the bill's in effect. And when
5 you look at this bill, it's very clearly in Section 1, the
6 uncodified section, and it's basically the reasons you
7 can't put requirements in there.

8 The second thing is if you accept what's written
9 in here as being somehow mandatory in spite of that, it
10 applies only with respect to protected lands. We on the
11 Garden Highway on the river side of the levee are not
12 protected lands. So there's language that says that you
13 cannot require an authorized project to include hydraulic
14 mitigation, goes on it says, for these protected lands.
15 That exemption doesn't apply to doing mitigation for
16 people on the water side of the levee. So I don't think
17 that's applicable to the discussion.

18 Finally, let's see --

19 PRESIDENT CARTER: If you could please wrap up.

20 MR. THAYER: I understand. I appreciate the
21 indulgence.

22 And, finally, I would say that -- it was asked
23 what kind of mitigation we're looking at. I think clearly
24 we would entertain anything that would have the effect of
25 preventing this impact, but raising the houses is the one

1 that makes the most sense. Takes us up out of the new
2 flood levels and protects Natomas at the same time.

3 Thank you.

4 PRESIDENT CARTER: Thank you.

5 Any questions for Mr. Thayer?

6 Thank you very much, sir.

7 Mr. Pineda.

8 MR. PINEDA:

9 Good afternoon, President Carter. It's not
10 normal where a DWR staff member comes and submits a public
11 comment card unless it's been kind of organized ahead of
12 time. But I feel compelled to address the Board this
13 afternoon on the Natomas SAFCA project on this issue,
14 because from 1995 to 2000 I was the Chief Engineer of the
15 Board and approved every permit that went through our
16 process. And from 2005 to the present I have been Chief
17 of the Floodplain Management Branch, and for about five
18 years of that -- and four and a half years of that over
19 seven years I reviewed the Floodway Protection Section
20 which produces the permits was within the branch and I
21 reviewed all the permits.

22 So, I have seen over 4,000 permits go by me and
23 I've reviewed them; and many of those are for the
24 structures along the Garden Highway or improvements to
25 those structures. So every one of the homes along the

1 Garden Highway should have a permit. Maybe not all of
2 them do. Many of the homeowners cannot find the permit
3 because they're tied to the original applicant.

4 Since the early nineties, and it's evolved even
5 stronger since, there are conditions in every Reclamation
6 Board permit, which is now the Central Valley Board, that
7 essentially says that the encroachment in a home is an
8 encroachment on an adopted plan of flood control, which in
9 this case are the project levees, that the encroachment
10 cannot interfere with the operations, maintenance, repair,
11 rehabilitation, reconstruction, or modification of the
12 adopted plan of flood control. So the work that SAFCA's
13 proposing is a modification -- partly a modification to
14 the project and partly a reconstruction, because we're
15 finding even at the design water surface that there's
16 underseepage problems.

17 So the conditions -- and every homeowner along
18 the Garden Highway can examine their permit if this
19 condition is in it, but I know at least for the ones from
20 the early nineties starting with Rod Mayer started the
21 process and we keep on strengthening it as we went
22 along -- essentially says if we have to modify the
23 project, whether it's the Corps, DWR, Reclamation Board or
24 locals, that the encroachment cannot interfere. And if
25 the encroachment has to be modified to accommodate the

1 change in the project because it's not -- homes were
2 not -- those project weren't designed to have homes on
3 them, the home kind of came by probably a series of
4 actions since the levees were overbuilt, that the
5 modifications to the encroachment to the homes have to be
6 done at the owner's expense.

7 When every permit that I was involved with went
8 out, an employee within the floodway protection section, a
9 very diligent employee, had a profile location with an
10 elevation on it that was the 100-year flood profile from
11 the Corps of Engineers -- after '86 it changed. When
12 models -- better model came along, the Corps gave us a new
13 profile. After '97, that hundred year profile went up.
14 And so we would write in the permit a condition that the
15 first floor has to be elevated at least so many feet above
16 that elevation that we would get off that profile. That's
17 when you go along the Garden Highway -- that is why as you
18 go along the Garden Highway you see homes at different
19 elevations, because our permit requirements essentially as
20 time has gone by required the homes to be higher, and the
21 homeowners were perfectly legally allowed to make them
22 even higher. So some did it on their own. Some did it
23 because the conditions required them to go higher. The
24 older homes have had problems with flooding, either
25 because we required them -- you know, we used old data,

1 the best available at the time; and some have modified
2 using, you know, their own funds or grant funds or things
3 of that nature.

4 One new thing came after 1997 because of the
5 result of people getting wet along the Garden Highway and
6 people who have homes in the Hallwood area water side of
7 the levee in Yuba county. And that is essentially a
8 document called a covenant running with the land. And
9 it's a legal document that we made the new permittees sign
10 or people who were going for modification -- substantial
11 modifications to their structures. So they wanted to add
12 a second story or build a swimming pool or add a garage or
13 do something like that. It's document that essentially
14 goes -- it gets recorded against the title. And it
15 essentially says you acknowledge -- you know, you're
16 getting this permit and you acknowledge that you're in a
17 flood zone, you're subject to flooding that can cause
18 damage, and you're doing essentially this at own risk.

19 The reason we started -- and I don't have all the
20 legal details. I don't have one in front of me to recall
21 exactly what they say, but we could provide that to the
22 Board. The reason we did that was that many of the
23 homeowners didn't know that they were subject to this
24 potential damage due to the flood waters because they were
25 on the water side of the levee, and maybe it was the

1 original homeowner three owners ago that got the permit
2 and it never has been handed down. We usually are able to
3 find one in our records and update the name.

4 So by putting it -- by having the applicant sign
5 a covenant, it gets recorded against the title. And when
6 there's a transaction that changes the owners, that's
7 uncovered during the title search, the new owner gets it
8 and understands the risks that they're at. So I wanted to
9 make sure that the Board fully understood that we for a
10 long time have been putting these special conditions and
11 these covenants for every home on the Garden Highway and
12 for modifications that require permits to the existing
13 homes on the Garden Highway.

14 So I can answer any questions if there are any.

15 PRESIDENT CARTER: Any questions for Mr. Pineda?

16 BOARD MEMBER SUAREZ: Mr. President, if I may.

17 Actually it's not a question, Mr. Pineda, as I
18 actually wanted to thank you very much for stepping up and
19 providing that information. That's kind of a useful --
20 what I would find useful information for this Board to
21 have. And I would ask the staff to take note of how
22 providing that type of historical information is something
23 that would help us in the future make -- as we make these
24 difficult decisions. So I appreciate very much your
25 stepping up.

1 MR. PINEDA:

2 Thank you.

3 PRESIDENT CARTER: Any other questions for Mr.
4 Pineda?

5 Thank you, sir.

6 Is there anyone else that wishes to present
7 testimony regarding this permit before the Board?

8 Okay. At this time we'll allow the applicant to
9 address the Board again, address some of the questions
10 that were raised as part of the public testimony.

11 Mr. Buer, good afternoon.

12 MR. BUER: Yes, President Carter. This is Stein
13 Buer again, Executive Director of SAFCA.

14 We propose to address these by category of
15 comments. And I'd like to make a couple opening remarks,
16 then ask John Bassett to speak to some of the detailed
17 engineering issues and Joe Countryman to respond again to
18 the hydraulic issues.

19 I just wanted to focus briefly on this issue of
20 risk shifting and how it relates back to the plan of flood
21 protection that was originally the function of this Board.
22 The book that was handed over to Dennis and to -- I just
23 slipped the name here, but --

24 EXECUTIVE OFFICER PUNIA: Lois.

25 MR. BUER: -- yeah, this morning. This book

1 relates the history of the project, "Battling the Inland
2 Sea." The fundamental thing that happened when the
3 Reclamation Board was established was that a plan was
4 developed wherein there's a common understanding of where
5 the water would go. The bypass system carries 80 percent
6 of the flow during a flood. And with the establishment of
7 that bypass system there was no longer the need for
8 reclamation districts to fight among themselves as to
9 where the water -- where would the levee break.

10 The idea was to create sufficient capacity to
11 handle the flood of record at the time. And subsequently
12 to that, there's always been an understanding that
13 reclamation districts had the right to exclude water from
14 the areas that they're protecting and to make those levees
15 as strong as they are able to do with economics. And as a
16 matter of practice, the urban areas have over time
17 developed stronger levees than the rural levees. So there
18 has become a dichotomous system.

19 And so when you draw the conclusion as Mr. Foley
20 did, that when we raise our levees further, we are
21 immediately placing RD 1001 at greater risk, that is
22 simply not true, because we're not redirecting flows at
23 all. We are reducing the chance that we fail. But their
24 safety does not depend on us failing. Quite the contrary,
25 it depends on the functioning of these channels.

1 I wanted to also remind the Board of what was
2 said in the December 21st meeting, which is that we have
3 worked very hard to facilitate improvements for RD 1001
4 too. We worked to achieve the authorization of the
5 improvements to the north levee of the Natomas Cross Canal
6 and our current project includes an arrangement whereby
7 funding from SAFCA will jump-start improvements on the
8 north side. We will provide the cash that allows them to
9 begin that process. And if we can, we may go beyond that
10 in the future.

11 This is the fundamental key that I wanted to
12 raise. Jeff Schneider also alluded to an example on how
13 this shifting of risk should occur. He used the analogy
14 of a hose. I would assert that that's not a bad analogy.
15 But if you are a segment along that hose, if the pressure
16 in the hose is not increased or the duration of the flow
17 in the hose is not increased, any segment in the hose does
18 not depend on the others failing to function.

19 The pressure in the hose is analogous to the
20 elevation of the water in the channel in an open channel
21 system. And we have gone to great lengths to document
22 that our program and our project will not raise the water
23 levels in the channels. Quite the contrary. The net
24 effect of our program is to lower the elevations in the
25 channels. This is a part of a comprehensive program for

1 which we've done a program EIR. This is tiered over off
2 of that project. And the combination of Folsom Dam
3 improvements and our levee strengthening is an improvement
4 in flood protection for our neighbors because water
5 surface elevations will drop almost entirely throughout
6 the system.

7 There's a tiny increase in stage at the very
8 upper end of the system because we make very conservative
9 assumptions about the effect of erosion protection we
10 place in the channel. It amounts to about
11 seven-hundredths of a foot if you assume that the new
12 material we put in the river to provide erosion protection
13 was never there in the first place. That's not true.
14 We're replacing eroded materials. But that's very
15 conservative assumption that there's a tiny, tiny increase
16 in stage that does that. Otherwise we're making our
17 neighbors better as well.

18 Finally, I would say that we have put evidence
19 before this Board that we believe that the Garden Highway
20 residents will be safer as a result of the improvements we
21 make as well, because by widening and strengthening the
22 existing levee, we reduce the chance that there will be a
23 failure adjacent to any of these homes. And if there is a
24 failure which floods Natomas, then, as the opponents have
25 said, there will be an inland sea and you will see two and

1 a half to four-foot waves breaking against the Garden
2 Highway. And that, I can assure you, will impede the
3 safety of the residents and the homes and property along
4 the Garden Highway.

5 I think we all get better together with this
6 project. We certainly are lowering water levels and
7 making both the residents of Natomas and the Garden
8 Highway residents safer.

9 Thank you.

10 BOARD MEMBER RIE: I have a question

11 PRESIDENT CARTER: Please, go ahead.

12 BOARD MEMBER RIE: Judge Schneider did a really
13 good job defining risk shifting for a hose. But we're not
14 talking about hoses here. We're talking about levees.
15 And in order for there to be some sort of risk shifting
16 based on his definition, these levees would have to be
17 homogeneous on both sides of the river, upstream and
18 downstream.

19 So my question is: Are all the levees in this
20 area homogeneous? Are they the same? Were they built at
21 the same time, to the same standards? And are they being
22 maintained in a consistent manner?

23 MR. BUER: And the answer of course is that
24 there's a great heterogeneity in the system which has --
25 when they were first constructed there was heterogeneity

1 based on the materials and methods at the time of
2 construction. Since that time there's huge differences in
3 terms of maintenance budgets, maintenance practices. And
4 what's really in there, no one really knows. The urban
5 levees have been given a great deal more attention
6 over time than the rural for the obvious reason that
7 there's an awful lot more property to protect and there
8 are more resources to accomplish that.

9 So, no, there's not uniformity.

10 The other assumption that's built into Mr.
11 Schneider's example is that there's an assumption that the
12 hose must break. And that is fundamentally the wrong
13 assumption. We are not assuming that the system must
14 fail. We can get through these floods without levees
15 failing if we improve them appropriately.

16 And as I said, the fundamental assumption of the
17 system is you don't rely on your neighbor's failure for
18 your safety. You rely on the channels and the bypasses to
19 function properly.

20 PRESIDENT CARTER: Any other questions for Mr.
21 Buer?

22 BOARD MEMBER SUAREZ: Mr. President, if I may.

23 PRESIDENT CARTER: Ms. Suarez.

24 BOARD MEMBER SUAREZ: A couple of our members of
25 the public mentioned the issue of water quality in their

1 wells. And I was wondering if you could address that,
2 please.

3 MR. BUER: I would like to allow John Bassett to
4 talk about the well issue. It's a little more technical.
5 I think you could probably do a better job when he touches
6 on that.

7 PRESIDENT CARTER: Okay. Any other questions for
8 Mr. Buer?

9 Okay. Mr. Bassett.

10 MR. BUER: Thank you.

11 PRESIDENT CARTER: Thank you.

12 MR. BASSETT: Thank you. Again, John Bassett
13 with SAFCA.

14 I'm going to try and find one of the slides that
15 I used here.

16 I guess we need to shift this back over. Excuse
17 me.

18 Okay. As this slide shows, SAFCA has various
19 project phases. We've identified the Natomas Cross Canal
20 up here as an orange phase, the Sacramento River orange
21 phase, which is the 2008 levee work, which are the two
22 items that are before your Board today, one for the permit
23 on the cross canal, one for the 408 letter for the Permit
24 18159-3, which is the first phase of the Sacramento River
25 east levee.

1 There is currently no cutoff walls in the
2 Sacramento River east levee section, which the landowners
3 are raising issues with, with cutoff walls addressing --
4 or impacting their wells. Right now there are no cutoff
5 walls. It is not included in SAFCA's approved project.
6 One of the things that we are currently undertaking along
7 with the Corps's EIS that they are preparing is an
8 analysis of the groundwater impacts that may result as if
9 you put cutoff walls in sections of the levee.

10 So we will address that in a subsequent
11 environmental document. And at the time our board
12 approves adding the cutoff walls back into the project,
13 which is only a small reach in this first phase that we
14 are even considering it, it's about -- about a mile out of
15 the four miles of the project that we have, that would be
16 in the final 100 percent drawings that would be presented
17 to your staff, the Corps of Engineers, and DWR EIP program
18 managers for finalization.

19 Most of the folks that are before you today live
20 downstream of that first initial phase of the project in
21 the 2009 and 2010 work. That work, which will again
22 include cutoff walls in certain locations, not all
23 locations, that will be the subject of an additional
24 EIR/EIS that will be before the Corps and our board later
25 this year. So this issue will be further discussed as we

1 have more detailed locations where we plan to put the
2 cutoff walls themselves. And that will be addressed at
3 that time. The water quality, water quantity issues will
4 be addressed during those documents.

5 PRESIDENT CARTER: And that will be under a
6 separate permit --

7 MR. BASSETT: Those are under separate permit --

8 PRESIDENT CARTER: -- from the one that's before
9 us today?

10 MR. BASSETT: -- which will come before your
11 Board and you'll be able to hear the EIR results and any
12 concerns that the residents have on that issue.

13 BOARD MEMBER SUAREZ: Just as a follow-up then,
14 just to make clear, the current environmental document
15 that just got certified does not include an analysis on
16 water quality and quantity?

17 MR. BASSETT: Not along the Sacramento River. It
18 addresses some questions that were there for cutoff walls
19 on the Natomas Cross Canal. So those have been addressed
20 in the current EIR.

21 BOARD MEMBER SUAREZ: And just briefly, what kind
22 of mitigation, if any -- impacts on the mitigation are
23 addressed then in that document?

24 MR. BASSETT: Well, the cross canal is much
25 different from the Sacramento River. There aren't

1 residents who sit right on either -- there are no
2 residents in the canal. There are three or four
3 residential properties that are close to the land side of
4 the canal. The hydrology in that reach of the system, the
5 aquifers are much different. You know, water doesn't
6 necessarily come from the canal to serve the wells. It
7 comes more or less from the eastern side of the basin.

8 So the analysis was that the cutoff walls would
9 not impede the flow of water into the wells. The material
10 that the walls are made out of, being a bentonite clay
11 material, it's a natural material, it's not toxic, it
12 doesn't pose a quality threat on that issue, it sets up
13 real quickly when you construct the wall. So it's not
14 like it would migrate through the sand strata into a well
15 that's next to it. It sets up.

16 The Corps of Engineers built probably four or
17 five miles of cutoff wall right along the Garden Highway
18 at the southern end of the basin down along the lower end
19 of the basin in front of the restaurants -- actually quite
20 a few more miles than that -- all the way up to Power Line
21 Road, and similar techniques that we are proposing. They
22 have not had any issues that have been raised by the
23 homeowners that somehow their wells have been starved as a
24 result of the cutoff walls or, you know, water quality
25 issues associated with that.

1 PRESIDENT CARTER: Any other questions for Mr.

2 Bassett?

3 Mr. O'Connor.

4 MR. O'CONNOR: It is probably in here someplace,
5 but I couldn't find it. On the cross canal, okay, as I
6 understand it, the current profile on the RD 1000 side
7 generally would convey a 200-year level but with zero
8 freeboard; is that correct?

9 MR. BASSETT: That's correct on both the north
10 and south levee of the cross canal.

11 MR. O'CONNOR: So both the north and the south
12 can currently convey 200-year --

13 MR. BASSETT: Yes, the -- if you look at the
14 slides that Eric Butler had up, the north levee is
15 slightly lower on average than the south levee. But they
16 are more or less, you know, within a tenth of a foot of
17 containing the 200-year water surface. So they will leak
18 slightly, overtop slightly, but not have a significant
19 amount of water move out of the system.

20 SECRETARY DOHERTY: Mr. Bassett, isn't the south
21 side of the Natomas Cross Canal, isn't it at least a foot
22 higher than the north side?

23 MR. BASSETT: No, actually --

24 SECRETARY DOHERTY: Wasn't it raised a couple of
25 years ago?

1 MR. BASSETT: There was a permit to raise it only
2 about a half a foot or so. But that more or less brought
3 it equal to the north levee, because we also had a permit
4 at that time to raise low spots in the north levee. And
5 we did both sides of the levee. So they more or less have
6 the same minimum amount of freeboard. They're not exactly
7 the same because they are kind of saw-tooth pattern. Some
8 areas are higher than others. But there's pretty much an
9 equality for the minimum amount of freeboard that is
10 there.

11 SECRETARY DOHERTY: But that channel has never
12 been kept clean either.

13 MR. BASSETT: That is an issue which there always
14 is a significant amount of vegetation in the channel. Our
15 hydraulic analysis look at that vegetation and it is
16 accounted for. Department of Water Resources is the one
17 who is responsible for maintaining the channels. They
18 have concluded I believe that the amount of vegetation
19 that is in there does not significantly affect the flood
20 flow capacity of the channel in part because, as has been
21 presented, the stage in that channel is predominantly a
22 backwater effect from the Sacramento River. If you took
23 the Sacramento River impacts out, that channel has quite a
24 bit of capacity to handle the flows that come down it.

25 PRESIDENT CARTER: Okay. Proceed.

1 MR. BASSETT: There was again a question on power
2 lines. And as you can see, this is the slide that shows
3 encroachments on the levee. You can see the two photos
4 that we have here. I don't know if these are the same
5 general locations, but there's a power line on the
6 waterside, there's a power line on the waterside in this
7 location. For a lot of reaches, however, the power lines
8 are over on the landside. So it is a mix.

9 In the section of the levee that we are looking
10 at this year, being the northern four miles or so of the
11 levee, there again is a mix of locations. Between Riego
12 Road and Sankey Road where the 20 or so houses are, about
13 half of those houses are served by power lines there on
14 the waterside, about half of them are served by power
15 lines that have a pole directly in the levee and then it
16 goes underground over to the houses.

17 We do not propose to change the location of those
18 power poles under this -- the first phase for the
19 Sacramento River.

20 Along the Natomas Cross Canal, the only location
21 where there are power poles on the levee is at the pump
22 stations, RD 1000, the two Natomas mutual pump stations.
23 So in this first phase of work, we are not shifting the
24 location of the power lines.

25 And one of the issues that we have, we are

1 assuming that we can rebuild the distribution system with
2 power poles placed basically where they're at. And we are
3 working with the Corps of Engineers to have their
4 geotechnical engineers agree with that location. If for
5 some reason the Corps tells us that, "no, you must clear
6 the power poles out of some certain location on the levee
7 system," then we will have to work with them to develop
8 new locations for the poles. That would also have to go
9 through your staff for relocation of those power lines.
10 And also have to be -- if we do move more poles over to
11 the waterside, our board would have to reissue that -- or
12 readdress that issue also.

13 Are there any questions on the power pole?

14 PRESIDENT CARTER: Please proceed.

15 MR. BASSETT: Okay. And Joe will come up and
16 help me on some of this.

17 One of the things that we presented in the
18 December meeting was -- it's important to realize that in
19 1957 or so when the system was designed there was a
20 certain assumed flow in the river channel. Over the
21 years, you see an increase in the number of times water
22 has equaled or exceeded the level of design. So what we
23 have shown here is, the dashed line, which is shown in the
24 bottom of this profile, this is the FEMA base flood
25 elevation profile that's on the effective firm map, which

1 is -- it's dated July 1998. But this line is essentially
2 the same line that was included in the first maps --
3 detailed study maps that were produced in 1978. FEMA has
4 not modified the base flood elevation in the channel over
5 the various iterations of the map since then.

6 Under the new hydrology, which is shown in our
7 design parameters, both for the 100- and 200-year, because
8 of the additional data that we have in the, you know,
9 1986, 1997 storms, current estimate of the 100-year FEMA
10 line would raise that line along the Garden Highway here
11 anywhere from almost three feet at about River Mile 67 to
12 maybe a foot and a half or so of at that River Mile 75.

13 So even though some of the Garden Highway
14 residents were told, yes, you know, here's a certificate
15 you are above the existing base flood elevation as we know
16 when they built their house, that line has crept up as
17 additional data has been accumulated in the system. So
18 where before they may have been above a FEMA 100-year
19 profile, new data would show them not to be. That has
20 nothing to do with our project.

21 Similarly for the 200-year, the 200-year estimate
22 has crept, because we have additional data. It is
23 higher than the estimates were before. That has nothing
24 to do with SAFCA's projects. It is just a reality of the
25 Central Valley Flood Control Project that protection that

1 folks thought they had over time has, you know, eroded
2 theoretically because of new data that projects higher
3 flows, potentially more frequent flows.

4 Any questions on that aspect?

5 One of the speakers addressed remaining
6 documentation that was to come before the Board. It's my
7 understanding that the Board will typically issue permits
8 on what we call a 60 percent submittal. That submittal
9 typically has the -- more or less the overall concept of
10 how the levees will be improved. We know that we'll be
11 raising various levees, you know, three feet. That
12 parameter probably won't change much. We know the
13 cross-section will be a 3-to-1 horizontal-to-vertical
14 slope on the landside and both the waterside. We know the
15 approximate alignments.

16 One of the things that changes between the 60
17 percent and the 100 percent plans is you get more details
18 in how the existing levee will be built over the top of
19 the existing levee, but not really too much in the way of
20 total shifting of the project. Likewise, the
21 specifications that are submitted will fine-tune various
22 parameters as far as payment quantities will add, in
23 addition to the more obvious technical spec sections such
24 as the -- how you construct a cutoff wall, how you compact
25 the levee, details on hydroseeding, details on any utility

1 relocations or things of that sort.

2 But the existing 60 percent drawings pretty much
3 describe the project. It is normally -- you know, normal
4 practice to take them to 100 percent, process them through
5 the Corps. There may be changes that come through on the
6 408 approvals. Those will also be wrapped into the 100
7 percent drawings and specifications. So by the time this
8 work is completed, the drawings and the specifications
9 will meet DWR, the Board staff's, and the Corps of
10 Engineers' parameters. So that is the normal process as
11 we understand it and has been practiced for several years.

12 I think Joe -- one of the issues that was raised
13 is what's the return frequency of the 1997 event. And I
14 think Joe Countryman will be able to shed some light on
15 that.

16 PRESIDENT CARTER: Also, Mr. Bassett, before you
17 leave, you may be the right person to answer this or maybe
18 Mr. Countryman. But there was a question about the
19 quantity of seepage that occurred as a -- during that '97
20 event.

21 MR. BASSETT: That is a geotechnical issue, that
22 if the Board wishes, we can calculate that. As was
23 demonstrated on the Natomas Cross Canal where the Board
24 asked us -- or the staff asked us to calculate that on the
25 first permit that was issued for the cross canal, it's

1 very little amount coming through as of result of seepage
2 for a 200-year design profile on the order of 10,000 -- 10
3 cfs versus the 20 or so thousand cfs in the channel.

4 What is interesting is that it is a little bit
5 difficult to calculate quantity as to how much is leaving
6 the system versus going to groundwater or how much is
7 rising to the surface. There are historic maps which we
8 can bring to the Board -- I believe the staff has them in
9 various early versions of our geotechnical analysis --
10 which shows typical areas of seepage, although they have
11 not made calculations. We can provide that next month I
12 believe for the 18159-3 permit, which we hope to have on
13 the agenda. We can answer that question at that time if
14 you would like.

15 PRESIDENT CARTER: Okay. Two other questions.

16 One, how current are the existing top-of-levee
17 elevation surveys that are shown for the -- to compare the
18 top of elevation of the levee versus the water surface
19 elevation?

20 MR. BASSETT: We have just end to middle of last
21 year completed a level circuit showing top of the levee
22 all the way around the Natomas basin. So the data that is
23 shown for the Natomas levees is within six months of
24 being -- you know, it's current as of six months ago. And
25 the work on the cross canal, again we just went back and

1 reconstructed that levee to the pre-project elevation, so
2 it should match what was there before our first phase
3 project.

4 Up and down the rest of this system that
5 originally started in the 1997 comprehensive study
6 hydraulic model, they went out and did some surveys. MBK
7 as engineer for some of the upstream districts, RD 784,
8 various other districts, as they have brought projects
9 forward and have done similar surveys, they have updated
10 the top of levee elevations. SAFCA in 1998, 1999 went and
11 did some additional surveys to try and increase the
12 accuracy of the data on the comprehensive study model.
13 But it does vary over the system. Some of it is very
14 current. Some of it is right now ten years old because it
15 was generated by the 1997 comp study.

16 PRESIDENT CARTER: With regard to this specific
17 permit request today, what is the oldest top of
18 elevation -- levee elevation data?

19 MR. BASSETT: For the Natomas Cross Canal?

20 PRESIDENT CARTER: For the Natomas Cross Canal
21 and the 408 request that is in the next item.

22 MR. BASSETT: Okay. That was middle of last
23 year, middle of 2007.

24 PRESIDENT CARTER: So essentially six or seven
25 months old?

1 MR. BASSETT: Yes.

2 PRESIDENT CARTER: Okay. Finally, we used a
3 one-dimensional model in terms of modeling the hydraulics
4 for this particular project. There are two-dimensional
5 models that are available.

6 I was wondering why we didn't use 2-D modeling as
7 opposed to 1-D.

8 MR. BASSETT: In part because the UNET model,
9 which is a non-steady state, one-dimensional model -- it's
10 not like a HEC-RAS or a HEC-2 model, which is steady
11 flow -- this system has variability in flow rate
12 over time. So we utilized the UNET model, which is a
13 non-steady state, one-dimensional model. We have in
14 certain areas when we are looking at velocities have used
15 the two-dimensional model, the RMA-2 model, to look at
16 velocities next to the river. Those are more driven for
17 the erosion control studies.

18 The data, however, is you would input the -- I
19 believe this is the way you would model this, is you would
20 input the results of the UNET non-steady state
21 one-dimensional flow into the RMA-2 model for the
22 hydrology coming through the system. And then the
23 two-dimensional model would give you the different
24 velocities at different times through the system. But
25 that model would be recalibrated to the same high water

1 marks as the one-dimensional model. So you wouldn't
2 necessarily get much different in the way of overall water
3 surface results. You would get additional data from the
4 velocity gradients that are available in two-dimensional
5 model.

6 But for most of the system, in fact the Corps
7 right now for Department of Water Resources and the Board
8 and Corps projects are taking the results of the UNET
9 model as far as the flow goes and converting them back
10 into a one-dimensional HEC-RAS model to utilize in
11 the upcoming plan of state flood control efforts. So
12 they're -- a one-dimensional model is not adverse. It is
13 very adequate for the design that we have and the purpose
14 it is being used for. It doesn't necessarily need a
15 two-dimensional look.

16 PRESIDENT CARTER: Okay. Thank you.

17 Mr. Countryman.

18 BOARD MEMBER RIE: Can I ask a question?

19 PRESIDENT CARTER: Oh, I'm sorry.

20 BOARD MEMBER RIE: Just real briefly. The Corps
21 came this morning and presented their findings on the 33
22 percent storm and how they couldn't certify for that. Is
23 that based on FEMA's criteria or their new really vague
24 risk and uncertainty methodology?

25 MR. BASSETT: It is based on -- I don't have the

1 number -- but their new engineering technical letter,
2 which is mandated for the districts to utilize. If they
3 are going to certify for FEMA, which they were in this
4 case, they have to use the risk and uncertainty
5 methodology. And as I think it was Mr. Henderson
6 indicated, FEMA will only recognize a federal flood agency
7 to make that calculation. So they couldn't ask SAFCA or
8 the city or the county to do our own risk and uncertainty
9 analysis. They had to have the Corps of Engineers do it
10 because they are the flood protection federal agency in
11 the Central Valley.

12 BOARD MEMBER RIE: So based on that, are these
13 levees planned to be decertified?

14 MR. BASSETT: They have basically already been
15 decertified with the letter that the Corps sent last year
16 regarding their inability to stand behind their 1998
17 certification letter that was submitted. This has been a
18 process that's been going on for quite some time. It
19 is -- the debate that has recently risen is Natomas
20 doesn't have a hundred-year protection; what zone should
21 it be? Should it be an A-99 zone, an AR zone? With the
22 recurrent results that the Corps announced this past week
23 with FEMA, it will be an AE zone.

24 So that's been the debate, that -- we've always
25 known that it would be decertified. We just were waiting

1 to see what actual flood zone would be labeled.

2 BOARD MEMBER RIE: But the maps haven't been
3 released, correct?

4 MR. BASSETT: They have not been released. They
5 are anticipated to be finalized by -- let me back up a
6 bit. The maps may not have been released. The data that
7 will be shown on the map has appeared in the federal
8 register already. But the maps will not be finalized I
9 believe until December of this year. The city can go
10 through an appeal process. You know, there's various
11 step-by-step mechanisms to make those maps effective. And
12 this past week we began the next phase of those steps, the
13 next process to where those maps will become effective.

14 BOARD MEMBER RIE: So if I wanted to pull a
15 building permit today, would I have to build 20 feet
16 higher or can I still build where everybody else is
17 building?

18 MR. BASSETT: You should ask the floodplain
19 manager of the jurisdiction that you're in. --

20 (Laughter.)

21 MR. BASSETT: -- which is not SAFCA.

22 BOARD MEMBER RIE: Okay. Thanks.

23 MR. PINEDA: I can answer that, if you'll indulge
24 me. Not often I get to address the Board three times in
25 one day.

1 So the question is is -- because the maps are not
2 final we add the word "regulatory" to them -- to what
3 standard does the government entity managing the land use
4 in that area, the City of Sacramento, the County of
5 Sacramento, or the County of Sutter, have to issue
6 building permits? And essentially FEMA recommends in
7 their guidance to use best available data. But it's
8 essentially a gray area. So until the maps become
9 regulatory effective final, they can issue building
10 permits to -- essentially how they've been doing in the
11 past. You can build whatever elevation take into account
12 surface drainage. So slab on grade with a little bit of
13 elevation.

14 So once the maps become effective and regulatory,
15 in December, if that schedule sticks, at that point after
16 they become effective, then there's like a 60-day period,
17 then they have to follow those new maps for all building
18 permits.

19 BOARD MEMBER RIE: Okay.

20 MR. PINEDA:

21 So right now you don't need to elevate.

22 BOARD MEMBER RIE: Thank you.

23 PRESIDENT CARTER: Okay. Mr. Countryman, we'll
24 go ahead and --

25 MR. COUNTRYMAN: Two very quick points.

1 The '97 flood is approximately the 80-year flood
2 according to the Corps flow frequency curves. This is the
3 Corps flow frequency curves. Anybody that's house now is
4 not flooded with 100-year flood will not be flooded by the
5 100-year flood when the project's completed. If they're
6 not now flooded by the 150-year flood, they will not be
7 flooded by the 150-year flood when the project's
8 completed.

9 The project is not changing the water surface
10 level for any given flow. It's staying the same.

11 That's all I have to say.

12 PRESIDENT CARTER: Thank you.

13 And questions for Mr. Countryman?

14 SECRETARY DOHERTY: I do, Mr. Countryman.

15 I'm curious about something. There have been a
16 lot of changes, and the people in Natomas are at risk.
17 And we're talking about a lot of money here. And we keep
18 talking about the 1957 profile. That's 50 years old. It
19 was developed from 1905 and 1909. Before we proceed,
20 should that be changed?

21 MR. COUNTRYMAN: I think that -- before we
22 proceed? I don't think -- unless we want to leave a lot
23 of people at risk, I don't think we can afford to do that.

24 SECRETARY DOHERTY: But is there something -- is
25 there a better profile?

1 What was the '86 flood?

2 MR. COUNTRYMAN: The '86 flood and the '97 flood
3 were essentially -- in Sacramento it varies, depending on
4 where you are, okay. But as far as Sacramento's
5 concerned, they were identical. They were within a
6 hundredth of a foot of each other at the Verona gauge,
7 which is at the cross canal.

8 SECRETARY DOHERTY: Okay. So that answers that
9 question.

10 Mr. Tully, you found out now. Both were 80-year
11 floods.

12 No, I don't want to leave anyone at risk. But
13 all I wanted to know, was there a better profile that we
14 could be developing to use from now on?

15 MR. COUNTRYMAN: Well, I think the State
16 Legislature has said that the standard should be 200-year
17 for urban areas. And I think that profile has been
18 developed and will be refined as they develop the State
19 Plan of Flood Control. But I do believe that will become
20 the operative profile for urban areas.

21 SECRETARY DOHERTY: All right. Thank you, Mr.
22 Countryman.

23 PRESIDENT CARTER: Ms. Rie.

24 BOARD MEMBER RIE: Question, Mr. Countryman.

25 MR. COUNTRYMAN: Oh, I'm sorry.

1 BOARD MEMBER RIE: I know you're an expert in
2 hydrology and hydraulics because I've seen you quoted in
3 the Sacramento Bee many times.

4 (Laughter.)

5 PRESIDENT CARTER: That would make a lot of us
6 experts, wouldn't it?

7 (Laughter.)

8 BOARD MEMBER RIE: So my question is: By
9 decreasing the risk for Natomas, are we increasing the
10 risk for somebody else?

11 MR. COUNTRYMAN: I think it's pretty much --
12 stein answered this, that is, that each link of this levee
13 system has its own fragility or probability of failure.
14 It's not based on somebody else's failure. The whole
15 system is conceived, constructed, and operated forever on
16 the premise that each link is operated and maintained.
17 And you can make it as strong as you want. You don't have
18 to leave a beaver hole in it because if you plug the
19 beaver hole somebody else might be disadvantaged. You can
20 strengthen the levee -- your level of protection is based
21 on your own levee.

22 Now, if you go and put something out in the river
23 channel that makes the water level higher, now that would
24 change the equation. But by strengthening the Natomas
25 levee, we're not disadvantaging anybody else. They have

1 the same probability of failure.

2 BOARD MEMBER BURROUGHS: I have a question with
3 that statement.

4 It's always changing, correct, with silt deposit?

5 MR. COUNTRYMAN: There's natural variation, yes.

6 BOARD MEMBER BURROUGHS: Correct. So at this
7 moment in time you can safely make your comments that it
8 doesn't have an effect. But the moment that the water
9 level changes, it does affect.

10 MR. COUNTRYMAN: But it would change regardless
11 of the project that's before you. In other words, if
12 sediment came in and raised the water level, everybody's
13 level would change but not as a result of the project
14 that's before you.

15 BOARD MEMBER BURROUGHS: I understand now.

16 BOARD MEMBER RIE: Thank you

17 PRESIDENT CARTER: Thank you.

18 Ladies and gentlemen, let's take a ten-minute
19 recess so that our court reporter can get a massage. And
20 then we will reconvene in ten minutes. So it's about 10
21 of 5. The hour is getting late. I'd like to try and pick
22 up the pace if we can.

23 Thank you.

24 (Thereupon a recess was taken.)

25 PRESIDENT CARTER: Ladies and gentlemen if you

1 could take your seats. We'll continue with our hearing on
2 Permit No. 18159-2.

3 We have heard from the applicants in response to
4 public testimony.

5 I want to -- at this point we also committed that
6 the applicant would have an opportunity to comment on the
7 draft resolution that was published earlier in the week
8 this week. I want to give that opportunity to other
9 members of the public as well. There are I think copies
10 available.

11 So at this time, if the applicant would like to
12 offer any comments with regard to the resolution, we'd
13 entertain those.

14 MR. BASSETT: Thank you, President Carter.

15 We've read the draft resolution that was sent out
16 I believe yesterday. There are some minor changes
17 throughout the document itself.

18 The document refers to the Natomas Cross -- on
19 the first page anyway, cross channel, which should be
20 cross canal. And the official term is Natomas Cross Canal
21 South Levee Phase 2 Improvements. That's the title that
22 was adopted by our Board in the EIR. And that's the title
23 we utilized in the permit application. We suggest that
24 that be consistent through all the documents that are
25 identified.

1 BOARD MEMBER RIE: Excuse me.

2 MR. BASSETT: Yes.

3 BOARD MEMBER RIE: Do you have copies of your
4 changes?

5 MR. BASSETT: I provided the copy to Eric and to
6 the attorney.

7 SENIOR ENGINEER BUTLER: We just have two. Right
8 now I have one and Ginny has one.

9 EXECUTIVE OFFICER PUNIA: I have one I will share
10 with either Ben or Teri.

11 SENIOR ENGINEER BUTLER: Mean I can give this up
12 if you guys want another one up there, as long as somebody
13 is tracking.

14 PRESIDENT CARTER: Why don't you keep track,
15 Eric, please.

16 SENIOR ENGINEER BUTLER: Okay.

17 PRESIDENT CARTER: Go ahead. Proceed, Mr.
18 Bassett.

19 MR. BASSETT: Okay. The other item was in some
20 areas the terminology "Flood Control Board" rather than
21 "Flood Protection Board" is slipped into the text. And we
22 would suggest that that be modified.

23 And then on the third "whereas" on the first
24 page, which describes what actions the SAFCA board took at
25 its meeting in November, "SAFCA" -- and I'll read through

1 this -- "Whereas, SAFCA as lead agency certified the EIR,
2 adopted" -- and we would suggest adding "mitigation
3 measures and a mitigation monitoring and reporting plan."
4 So add the text "mitigation measures and..."

5 "...MMRP incorporated herein by reference and
6 available at the Central Valley Flood Protection Board or
7 at SAFCA." And then change "issued" to "approved
8 findings." And then add after "findings," "and a
9 statement of overriding considerations pursuant to CEQA."
10 That would describe what action our board took on November
11 29th of 2007.

12 And then the next substantive change is on page
13 6, the last paragraph, which has been discussed earlier.
14 We would suggest deleting the entire last paragraph on the
15 page 6 that I have, which begins, "Approval of
16 encroachment permits and Federal 33 U.S.C. Section
17 requests." We would suggest striking that entire
18 paragraph.

19 And that is the last change that we would suggest
20 other than the minor changes with the title of the project
21 and the Board's name.

22 PRESIDENT CARTER: Okay.

23 MR. BASSETT: Any questions on that, I'd be happy
24 to take them.

25 BOARD MEMBER RIE: I have a question.

1 Item No. 13 on page 7 of the draft resolution, we
2 discuss the airport expansion. I just want to clarify
3 that that's something you discuss in your EIR, because we
4 didn't discuss that in any of the public hearings.

5 MR. BASSETT: Yes, under the Cumulative Impacts
6 section of the EIR, it discusses a whole lot of different
7 potential and planned changes in the region -- the airport
8 improvement, which I believe was discussed in the paper
9 yesterday as moving forward. And the Sacramento County
10 anticipates beginning with construction on that later this
11 year. So it is included in the Cumulative section of the
12 EIR.

13 BOARD MEMBER RIE: Ms. Cahill, I'm just wondering
14 if that's something that is covered under the EIR? Do we
15 need to restate it in Item 13?

16 LEGAL COUNSEL CAHILL: The only reason for
17 restating it was that the legislation asked you to
18 recognize future events including proposed development.
19 So this information EIR was the evidence you had on future
20 proposed development. But the last sentence you could
21 delete. But I think it doesn't hurt to identify that that
22 evidence is in the record and that you're aware of it.

23 BOARD MEMBER RIE: Are you guys okay with that?

24 MR. BASSETT: It would specifically identify one
25 of the several projects that we discussed. I don't know

1 that we need to single it out.

2 BOARD MEMBER RIE: Okay.

3 PRESIDENT CARTER: Any other questions for Mr.
4 Bassett?

5 Thank you.

6 MR. BASSETT: Thank you.

7 PRESIDENT CARTER: Does any other member of the
8 public, the audience have any comments with regard to the
9 draft resolution?

10 Mr. Foley.

11 MR. FOLEY: As a member of the public, this may
12 be my fault. But I'm not even aware of a draft
13 resolution. When did that become publicly available?

14 BOARD MEMBER RIE: It's on the website.

15 MR. FOLEY: Website.

16 PRESIDENT CARTER: Yes, it's on the website. I
17 believe there are copies available.

18 MR. FOLEY: Okay. That's my fault.

19 I would like to while I'm standing up here repeat
20 that I think The Rec Board -- the Flood Protection Board
21 needs to protect RD 101.

22 Thank you.

23 PRESIDENT CARTER: Okay. Any other members of
24 the public audience that wish to comment on the
25 resolution?

1 Okay. At this point I'd like to give staff an
2 opportunity to -- staff, do you have any comments, would
3 like to respond to any testimony presented during the
4 public testimony?

5 SENIOR ENGINEER BUTLER: No, in review of all the
6 evidence that I've heard so far and the testimony that's
7 been given, I don't have any direct rebuttals to anything
8 or additional questions. I appreciate everyone's openness
9 and honesty in the process. And I think we've moved --
10 we've made a lot of progress. I'm interested to get
11 going on the resolution here and see where we're going to
12 go from that. So I'm good at this point.

13 Thank you.

14 PRESIDENT CARTER: I have a question for staff,
15 perhaps Mr. Butler or Mr. Punia.

16 In your opinion, is the application complete to
17 the extent that the Board has sufficient information and
18 evidence to go ahead and make a decision today?

19 SENIOR ENGINEER BUTLER: Yes, I do, given that we
20 are approving -- we are conditionally approving a permit
21 that would include requirements for 408 from the Corps to
22 come forward as well as DWR early implementation approval
23 of 100 percent drawing. So I think with those two
24 conditions, that allows us to move forward at this point.

25 EXECUTIVE OFFICER PUNIA: I agree.

1 PRESIDENT CARTER: Okay. Very good.

2 Then at this time, unless there are any other
3 comments, I'm going to go ahead and close public testimony
4 on this hearing. And at this point then the Board
5 members -- we can deliberate on what our next steps are,
6 what the Board wants to do at this point.

7 So do I have any suggestions, any proposals, any
8 motions?

9 BOARD MEMBER SUAREZ: Mr. President, if I may.

10 I move that we adopt the resolution we have
11 before us with the changes that have been suggested by the
12 applicant.

13 PRESIDENT CARTER: Okay. We have a motion to
14 approve the resolution before us with the changes proposed
15 by the applicant

16 BOARD MEMBER RIE: Second.

17 PRESIDENT CARTER: And we have a second. Any
18 discussion?

19 No discussion?

20 VICE-PRESIDENT HODGKINS: Only to say that I
21 thought the changes proposed by the applicant were pretty
22 straightforward in that they were just clarifying names
23 and deleting the reference to shifted risk, which I at
24 least agree with is a speculative thing, not a finding
25 based on any other testimony that we've received for any

1 of the analysis that's been done.

2 PRESIDENT CARTER: I think certainly the
3 testimony reflects that we have had that discussion,
4 understand that, and have considered it.

5 Okay. If there are no -- if there's no further
6 discussion, we'll -- let's see here -- then we'll go ahead
7 and I'll ask Mr. Punia to call the roll.

8 EXECUTIVE OFFICER PUNIA: Board Member Emma
9 Suarez?

10 BOARD MEMBER SUAREZ: Aye.

11 But one of these days you have to start at the
12 other end.

13 (Laughter.)

14 EXECUTIVE OFFICER PUNIA: Okay. I'm a right-hand
15 person, so that's how it works. But I will keep in mind
16 next time.

17 Board Member Butch Hodgkins?

18 VICE-PRESIDENT HODGKINS: Aye.

19 EXECUTIVE OFFICER PUNIA: Board Member Teri Rie?

20 BOARD MEMBER RIE: Aye.

21 EXECUTIVE OFFICER PUNIA: Board Member John
22 Brown?

23 BOARD MEMBER BROWN: Aye.

24 EXECUTIVE OFFICER PUNIA: Board Member Rose
25 Marie?

1 BOARD MEMBER BURROUGHS: No.

2 EXECUTIVE OFFICER PUNIA: Board Member Lady Bug?

3 SECRETARY DOHERTY: Aye.

4 EXECUTIVE OFFICER PUNIA: President Ben Carter?

5 PRESIDENT CARTER: Aye.

6 So the motion carries 6 to 1.

7 Very good. At this point then we are closing the
8 hearing on this particular application and moving on with
9 our agenda.

10 Thank you very much.

11 So we've got a couple more things to do. Item 11
12 is 408 and 104 letters.

13 So Item 11A is Application No. 18159-3,
14 Sacramento Area Flood Control Agency, Natomas Levee
15 Improvement Program, Sacramento River East Levee Phase 1
16 Improvement Project, Reaches 1 through 4B, Sacramento and
17 Sutter counties.

18 Mr. Butler.

19 (Thereupon an overhead presentation was
20 Presented as follows.)

21 SENIOR ENGINEER BUTLER: Didn't we just do this?

22 PRESIDENT CARTER: Hopefully we don't have to --

23 SENIOR ENGINEER BUTLER: Okay. This will be much
24 quicker.

25 PRESIDENT CARTER: -- rehash everything we've

1 done over the last three hours.

2 SENIOR ENGINEER BUTLER: And I will probably even
3 bump past a few slides. This is about a third the number
4 of slides as the last one.

5 I think we know where this project is, because
6 there was a lot of overlap in discussion. Ask me any
7 questions if I go too quickly.

8 This is the Phase 1 of the Sacramento River east
9 levee component of SAFCA's NLIP, specifically what they
10 refer to as Reaches 1 through 4B. It is in both Sutter
11 and Sacramento counties.

12 And, again, I call to your attention the overview
13 map. Basically we're talking -- let me go to the next
14 one.

15 --o0o--

16 SENIOR ENGINEER BUTLER: This is from SAFCA's
17 map. Here's the cross canal flowing into the Sacramento
18 River. And beginning with Reach 1, Reach 2, Reach 3, 4,
19 down to 4B, approximately just into Sacramento County.
20 Here's the county line. So it looks like by the dash line
21 on the map it's about here, a little bit North of Elverta
22 Road. So that's the location of the improvements. This
23 is the first request that we've had before us for their
24 Application 18159-3. It does, however -- attached to it
25 still is the same EIR -- draft EIR/EIR findings,

1 resolution that we've already discussed in great detail
2 with the cross canal project.

3 --o0o--

4 SENIOR ENGINEER BUTLER: This is a graphic
5 provided in one of the EIRs with a concept cross-sectional
6 depiction of what SAFCA calls the adjacent setback levee
7 concept. And this was -- this was along the Garden
8 Highway, showing a home to the right, the existing levee
9 in sort of a dark shaded color, and then fill being placed
10 on the land side of the existing levee to achieve
11 improvements to the levee.

12 --o0o--

13 SENIOR ENGINEER BUTLER: Specifically, we are
14 here today to consider approval of a letter to the Army
15 Corps of Engineers Sacramento District requesting 33
16 U.S.C. Section 408 approval to alter the Federal Flood
17 Control Project levee along the east, or left looking
18 downstream, bank of the river.

19 The proposal includes placement of landside fill
20 to construct seepage remediation measures. And, John, if
21 you would clarify this for me at the appropriate time. It
22 says including cutoff walls, seepage berms and relief
23 wells along approximately 22,800 linear feet of the
24 landside slope of the existing east levee.

25 John, you had mentioned that at this point you

1 weren't proposing cutoff walls. But the language in the
2 permit application includes it. So can we get that
3 clarified before we move forward, please.

4 MR. BASSETT: Again, John Bassett, Director of
5 Engineering for SAFCA.

6 The current plans that are before have been
7 submitted to the staff under this application include just
8 the seepage berms. We anticipate that we will be able to
9 work through the issues that have been discussed regarding
10 cutoff walls and that by the time we are to 100 percent
11 plans, both our board and your board and the Corps of
12 Engineers will be able to approve inclusion of about I
13 think around 6,000 feet of cutoff walls in the northern
14 section, Reach 2 and 3, as Eric had presented to you here
15 on our map, which is kind of a limited deployment of
16 cutoff walls. But that will be finalized in part as the
17 Corps moves through their EIS process to allow them to
18 approve -- or grant the 408 permission. Right now it
19 doesn't include any. We have just asked and included this
20 in here to be able to utilize them should the Corps and
21 the various boards approve utilization of the cutoff
22 walls.

23 SENIOR ENGINEER BUTLER: Thank you, John.

24 So, again, they will do some further analysis to
25 determine the exact delineation of the various seepage

1 remediation measures that they will ultimately apply.

2 And, again, we did send a similar request on the
3 cross canal project just one month ago, so we should all
4 be pretty familiar with the process.

5 The east levee hydraulic design, it's basically
6 the same statements from the cross canal, that the east
7 levee contains -- approximately contains the 200-year
8 profile. I think if we look hard at those profiles that
9 we had up there earlier, we can find little sections that
10 might not be quite high enough. But generally speaking
11 it's at or about the 200-year level. But we don't have
12 three feet of freeboard entirely through that reach.

13 --o0o--

14 SENIOR ENGINEER BUTLER: And, again, SAFCA's
15 assuming that that three foot of freeboard requirement,
16 while not in our laws today, may ultimately be there. So
17 in addition to technical reasons, engineering reasons for
18 having the freeboard, they believe there may ultimately be
19 legal reasons for having it as well.

20 --o0o--

21 SENIOR ENGINEER BUTLER: Okay. This is
22 the -- I'm going to show you just one profile of the six
23 we looked at earlier. And so I'll move my mouse slowly.
24 About the beginning of this levee -- this dotted section
25 here. This is the upstream end about at the Natomas Cross

1 Canal. And reaches 1 through 4B would bring us down
2 somewhere in the vicinity of River Mile 75. So, while you
3 can see there's ultimately a bigger section to be raised,
4 we're specifically talking about this reach right in here
5 today.

6 I don't think there's too much else we need to
7 say about this profile at this time.

8 --o0o--

9 SENIOR ENGINEER BUTLER: It's the same
10 significant impact criteria of one-tenth of one foot, or
11 1.2 inches that was discussed in the prior hearing. And
12 that that criteria was applied with or without project
13 conditions at the '57, 100-, and 200-year profile.

14 And I just want to reiterate that the modeling
15 analysis which was done by SAFCA is -- at least for
16 SAFCA's purposes it includes all their proposals. It's
17 not piecemealed. So we're looking at the cumulative
18 effects on their modeling of all their proposals.

19 --o0o--

20 SENIOR ENGINEER BUTLER: Direct hydraulic impact
21 of levee strengthening. Again, we've talked about the
22 minor amount of seepage that would be eliminated by levee
23 strengthening and that we feel that it is insignificant in
24 terms of having any hydraulic impacts to increasing water
25 surface profiles.

1 Pretty much the same conclusion -- and not pretty
2 much -- it is the same conclusion as the cross canal
3 analysis.

4 --o0o--

5 SENIOR ENGINEER BUTLER: And since there are no
6 waterside fill locations proposed for the east levee,
7 SAFCA's concluded that there are no direct adverse
8 hydraulic impacts to the Sacramento River Flood Control
9 Project. And I would agree with that as well.

10 --o0o--

11 SENIOR ENGINEER BUTLER: It's the same analysis
12 on the landside fill because it's not directly -- it's not
13 impacting the hydraulic cross-section, the flow carrying
14 ability of the river is not affected. And as we would
15 expect, the model analysis results concluded that there
16 was no increase at the '57, 100- or 200-year flow levels
17 with or without project conditions. And I agree with that
18 conclusion as well.

19 --o0o--

20 SENIOR ENGINEER BUTLER: We also have 60 percent
21 drawings without the geotechnical report. So they're in a
22 similar condition. As to the cross canal, we have not
23 done any reviews on this at all yet. But the same review
24 process will ultimately be carried out by DWR.

25 --o0o--

14 --o0o--

1 the United States free from damage due to the construction
2 works. And within 90 days of completion of the project
3 alteration the Board will provide information to the Corps
4 for purposes of repairing a revised O&M manual for this
5 portion of the Sacramento River Flood Control Project,
6 along with as-built plans and specification for this
7 alteration.

8 This language is identical to the three
9 conditions of the requests that I recommended to you last
10 month and you approved for the cross canal component.

11 And that's it. And I believe somewhere we have a
12 clean copy of the draft 408 letter. I hope we have that
13 with us today.

14 Do we, Jill?

15 EXECUTIVE OFFICER PUNIA: Jill has the original
16 and we have copies in your package.

17 PRESIDENT CARTER: My package is getting so
18 large, I can't find everything. But Jay had it here.

19 Are there any questions for Mr. Butler?

20 VICE-PRESIDENT HODGKINS: Eric, do we know when
21 they're likely to submit the permit application?

22 SENIOR ENGINEER BUTLER: Well, I heard earlier
23 someone comment that they might want to submit that next
24 month. You might want to request that we bring that
25 before you next month. Whether or not that's feasible or

1 not yet, we'll need to discuss that.

2 EXECUTIVE OFFICER PUNIA: We'll have a discussion
3 with the SAFCA staff when is it appropriate to bring the
4 permit application.

5 MR. BASSETT: If I can respond. The permit is --
6 has been submitted at the same time the cross canal permit
7 was submitted. It is just tracking separately from the
8 cross canal permit. So it was submitted I believe
9 November 2nd with the cross canal application.

10 VICE-PRESIDENT HODGKINS: I think the information
11 I was looking for is, when do you need it?

12 MR. BASSETT: We would like it next month. We
13 need it at the same time the 408 package is approved. But
14 as we have discussed, some with your staff, we would like
15 to get all the permits as early as we can to run the
16 statute of limitations on any lawsuits so we don't get
17 through our lawsuit, which we have been sued, only to have
18 your Board become subject to another suit and extend the
19 project out.

20 VICE-PRESIDENT HODGKINS: Thank you.

21 PRESIDENT CARTER: Any other questions for Mr.
22 Butler?

23 BOARD MEMBER SUAREZ: Just a clarification. You
24 were saying that there is a final environmental document
25 supporting these projects?

1 SENIOR ENGINEER BUTLER: Yes, they're one in the
2 same. The draft and final EIRs I believe I incorporated
3 it into the staff report as Reference No. 1. You all
4 should have received a bound hard copy of that prior to
5 the December meeting. You probably didn't bring it with
6 you today, but that's -- it is the same EIR for both -- as
7 I understand it, it's the 2008 construction projects for
8 the landside components of the Natomas Levee Improvement
9 Program.

10 EXECUTIVE OFFICER PUNIA: It's the combined one.

11 SENIOR ENGINEER BUTLER: Yeah.

12 One clarification. I believe we do not -- in the
13 haste to put this all together, I don't know that we have
14 a clean copy of the 408 letter as we speak.

15 BOARD MEMBER BURROUGHS: I would prefer not to
16 use "in haste".

17 SENIOR ENGINEER BUTLER: Okay.

18 BOARD MEMBER BURROUGHS: Thank you.

19 BOARD MEMBER RIE: But what do you mean by clean
20 copy? My copy looks pretty clean.

21 SENIOR ENGINEER BUTLER: Doesn't the copies you
22 have say "draft" on them?

23 SECRETARY DOHERTY: Yes.

24 BOARD MEMBER RIE: Yeah.

25 EXECUTIVE OFFICER PUNIA: We will manage it I

1 think with the final copy. Eric was not able to bring it
2 so that we can get it signed from Ben and Board Member
3 Lady Bug. But we'll manage it to get it signed.

4 SENIOR ENGINEER BUTLER: It may be possible, if
5 you're okay with it, to throw on a flash drive and run up
6 to Dave's printer and get it back to you before the
7 meeting ends.

8 PRESIDENT CARTER: There are other ways to get
9 that process done. That's not a problem.

10 SENIOR ENGINEER BUTLER: Okay. However you'd
11 like to handle it.

12 PRESIDENT CARTER: What's important is that the
13 Board consider it and decide what they want to do this
14 afternoon.

15 So any other questions for Mr. Butler?

16 Does the applicant have anything to add?

17 MR. BASSETT: No, I think Eric again did a very
18 good job of presenting the item.

19 The only thing that I notice, utilizing the text
20 that is up here, I recall that the Corps was very specific
21 about what they wanted to see as far as wording in the
22 language of the letter. And where this presents best
23 interests of the state, I thought their wording was "best
24 interests of the public." So that may be a clarification
25 that staff may need to take a look at.

1 That would be my only comment.

2 PRESIDENT CARTER: Okay. Thank you.

3 Does any member of the public wish to address the
4 Board on this item? I have a few cards, but I think these
5 gentlemen have departed at this point.

6 Does anyone wish to address the Board on this
7 item?

8 Mr. Schneider, Mr. Tully, Mr. Thayer, are they in
9 the audience?

10 Very good.

11 What's the pleasure of the Board? Any further
12 discussion?

13 We'll entertain a motion.

14 BOARD MEMBER RIE: Do we need to get
15 clarification on that one word, "public" versus "state"?
16 Does Mr. Washburn want to address that?

17 SENIOR ENGINEER BUTLER: He said no.

18 Teri, let me just add that this is the same
19 language that we've used in the last three or four 408
20 requests. And it was specifically kind of structured for
21 me by Jim Sander of the Corps back prior to the Atlas
22 Tract request in October. So if we want to change it, I'm
23 sure that's at your discretion. But me did say state.

24 SUPERVISING ENGINEER FUA: I have a copy of the
25 408 letter that you adopted for LD-1. And actually Mr.

1 Bassett is right. It's public, not state.

2 SENIOR ENGINEER BUTLER: Well, we've been
3 inconsistent then I think.

4 SUPERVISING ENGINEER FUA: It says here, "The
5 Board has determined that LD-1 will accomplish this
6 alteration in a manner that will not be injurious to the
7 public interests."

8 PRESIDENT CARTER: Okay. So the Corps has been
9 very specific in terms of their requests in terms of the
10 language on this. So it would probably make sense to use
11 the language that has worked in the past, which would
12 essentially follow the form of the past 408 requests.

13 So I will entertain a motion from the Board.

14 BOARD MEMBER BURROUGHS: I so move that we
15 send -- the recommendation from the staff to send the
16 letter to the U.S. Army Corps with the change of changing
17 the word from "state" to "public".

18 PRESIDENT CARTER: Okay.

19 BOARD MEMBER BROWN: I'll second that, Mr.
20 Chairman.

21 PRESIDENT CARTER: We have a motion and a second.
22 Any discussion?

23 BOARD MEMBER RIE: Do we need to change a few
24 more words? I think there were "noninjurious" or -- and
25 we have "best interests". Would you recommend that

1 change, Dan?

2 SUPERVISING ENGINEER FUA: Yes, I would recommend
3 that we follow the LD-1 letter, because that's what the
4 Corps of Engineers had instructed us to use.

5 PRESIDENT CARTER: Rose Marie, would you mind
6 taking an amendment to your motion to essentially send a
7 408 to the Corps --

8 BOARD MEMBER BURROUGHS: Not with the wording.
9 So I wouldn't -- maybe someone else would like to make a
10 motion.

11 PRESIDENT CARTER: Okay. Well, we've got a
12 motion before us to send the letter with the modi -- the
13 letter that we have in a draft form in the packet with the
14 modification of changing "state" to "public" and we have a
15 second.

16 Any other discussion?

17 BOARD MEMBER BROWN: Question.

18 PRESIDENT CARTER: Calls for the question.

19 All right. All those in favor indicate by saying
20 aye.

21 (Ayes.)

22 PRESIDENT CARTER: And opposed?

23 Motion carries.

24 Very good.

25 Item 11 -- or I'm sorry -- Item 11B, American

1 River Common Features Project. Consider approval of a
2 letter to the U.S. Army Corps of Engineers requesting
3 credit under Section 104 Public Law 99-662 on behalf of
4 the Sacramento Area Flood Control Agency for flood control
5 improvements in the Natomas basin along the east levee of
6 the Sacramento River and the south levee of the Natomas
7 Cross Canal.

8 Mr. Kerr, good afternoon. Thank you for your
9 patience.

10 MR. KERR: Good afternoon, president Carter,
11 General Manager Punia, and members of the Board. My name
12 is Tim Kerr, and I'm the state's project manager
13 representing the Board in the management of the American
14 River Common Features Project with the U.S. Army Corps of
15 Engineers and SAFCA.

16 (Thereupon an overhead presentation was
17 Presented as follows.)

18 MR. KERR: Item 11B is a request for your
19 approval to send a letter to the Corps that requests 104
20 credit for work that SAFCA is planning to undertake in the
21 2008 construction season. You've been briefed in December
22 and on the last two agenda items on the specific nature
23 and features of that work. So I'm planning to more
24 specifically describe how SAFCA's work fits in with the
25 common features project.

1 --o0o--

2 MR. KERR: Common features project was authorized
3 in the Water Resources Development Act of 1996 to
4 strengthen the levees downstream of Folsom Dam, to provide
5 basically a 200-year level of flood protection for the
6 urban center of Sacramento. We commenced construction in
7 1998 building slurry walls up and down the north and south
8 levees of the American River. We've completed
9 approximately 24 miles of slurry walls on the American
10 River.

11 New features were added in WRDA '99 that included
12 levee raising that established parity of flood protection
13 on both the north and south levees of the American River.
14 Also, WRDA '99 included the Natomas Cross Canal work.

15 We plan to get new authorization in the Water
16 Resources Development Act of 2010. In the middle of our
17 design we realized that incorporation of features to
18 remedy underseepage dramatically increased our costs and
19 scope of the project. Specifically in Natomas is where we
20 thought the biggest cost increase was going to be. So the
21 Corps was directed to undergo a reauthorization effort and
22 produce a general reevaluation report to indicate that we
23 have analyzed all the possible alternatives for providing
24 200-year level of protection to Sacramento.

25 Midstream in that effort we discovered new

1 issues, specifically flood threat in the Pocket based on
2 the new ETL and underseepage criteria that we received
3 from the Underseepage Task Force. So within the last four
4 months or so the Corps has expanded the scope of the GRR
5 to also include the Pocket and the levees of the American
6 River also. So we're going to use the freshest set of
7 data and criteria to analyze the flood protection needs of
8 Sacramento.

9 Our cost sharing to date on this project is
10 approximately \$126.3 million. We've accomplished a lot of
11 work in our partnership with SAFCA and the Corps. You can
12 see some of the cost breakouts. We split this 75/25
13 between the federal and non-federal sponsors. And the
14 non-federal share is further split 70/30 between the Board
15 and SAFCA.

16 --o0o--

17 MR. KERR: Current work that we're looking to
18 undertake in the short future is the Mayhew levee raise
19 enclosure structure. I've briefed the Board a number of
20 times on the Mayhew levee raise enclosure structure. We
21 awarded the contract last fall. And we look to get a nice
22 early start this construction season and begin prepping
23 for the levee raise and installation of the closure
24 structure.

25 We're starting design on a new batch of the

1 remaining sites to seal the gaps in the slurry wall at the
2 location of major infrastructure and utilities. And we're
3 also starting design on the WRDA 1999 levee raising
4 features on the north levee of the American River. Those
5 are near Jacobs Lane, Howe Avenue, and at the intersection
6 with the Natomas East Main Drainage Canal.

7 And then as I spoke to earlier, we are midstream
8 in the general reevaluation report. The Corps has agreed
9 to an expedited effort on that. It's quite a heroic
10 effort. We're trying to get the project reauthorized in
11 the WRDA 2010. Luckily we've got a lot of help from
12 SAFCA. And the work that SAFCA has been before you to get
13 approval for is extremely likely to be the same work that
14 we identify in our study as to receive the federal
15 authorization.

16 SAFCA has just some of their resources to provide
17 the work and the improvements prior to the schedule that
18 the Corps has outlined. And we hope that, you know, with
19 good coordination with SAFCA and the Corps, that there's a
20 very high likelihood that SAFCA has all the latest
21 criteria and standards and analytical tools that the Corps
22 has. And we are keeping the dialogue open and meeting on
23 a regular basis to make sure that those improvement are in
24 line with what would likely be the federal authorization.

25 The federal authorization effort is a little more

1 stringent in that we have to analyze every conceivable
2 alternative for providing that flood protection even if
3 there is a very low likelihood of that alternative
4 actually being authorized. We're going to look at raising
5 the Natomas levee in place, which would probably include
6 removal of all encroachments on the levee. And there's
7 not a very high likelihood of that, but we do have to
8 study that alternative. We'll probably be looking at
9 improvements to the bypasses to lower the water surface,
10 and we'll be looking at levee raises in the Pocket area as
11 well.

12 BOARD MEMBER BROWN: How far downstream does that
13 extend?

14 MR. KERR: Our authority goes to about Freeport,
15 a little south of Freeport. That's about as far -- I
16 think the Morrison Creek levee, if I'm correct, is about
17 as far as we go, and as far north as the Natomas Cross
18 Canal. We'll also be looking at the eastern side of the
19 basin with the Natomas East Main Drainage Canal and then
20 we'll re-evaluate the work that we've done and propose to
21 do on the American River levees also.

22 BOARD MEMBER BROWN: -- Natomas Reservoir?

23 MR. KERR: I'm not familiar with the Natomas
24 Reservoir. I could look into that and get back to you on
25 that.

1 BOARD MEMBER BROWN: Great.

2 MR. KERR: So in effect requesting 104 credit
3 from the Corps, it just reserves the opportunity to be
4 considered for credit when this federal project is
5 authorized. And what that would do is, when the federal
6 project is authorized, we could use the credit that the
7 non-federal sponsors have gained through the improvements
8 to date to be applied to work in the Pocket or additional
9 work on the American River or possibly even elsewhere in
10 the Central Valley. And what that essentially does is it
11 also secures a federal investment in Sacramento flood
12 protection also through the granting of those credits.
13 It's not a sure thing, but the 104 letter approval before
14 SAFCA starts construction just gets our foot in the door
15 and reserves the potential to be considered for credit.

16 So I recommend that you do approve sending the
17 letter.

18 --oOo--

19 MR. KERR: Here's the language that's in the
20 agenda.

21 "Consider approval of the letter to the U.S. Army
22 Corps of Engineers requesting credit under Section 104 of
23 Public Law 99-662 on behalf of the Sacramento Area Flood
24 Control Agency for flood control improvements in the
25 Natomas basin along the east levee of the Sacramento River

1 and the south levee of the Natomas Cross Canal."

2 Do you have any questions?

3 PRESIDENT CARTER: Any questions for Mr. Kerr?

4 BOARD MEMBER BROWN: No, no questions. I called
5 it Natomas Reservoir. I think it's called Lake Natomas,
6 is that right?

7 EXECUTIVE OFFICER PUNIA: Yes.

8 MR. KERR: Perhaps maybe SAFCA might know more
9 about that.

10 MR. BUER: It's at Nimbus Dam.

11 MR. KERR: Oh, I was thinking up in Natomas
12 basin. Yeah, Nimbus Dam and Lake Natomas.

13 You know, the levee section of the American River
14 ends about Arden Way on the north levee. And we're going
15 to extend it up to about Bradshaw on the south levee.
16 Currently it only goes to the Mayhew drain.

17 And so the leveed section, above the leveed
18 section, typically the flood flows are contained within
19 the low flow or the channelized section of the American
20 River.

21 BOARD MEMBER BROWN: Thank you.

22 MR. KERR: Our project specifically is looking at
23 the need for levee improvements.

24 Thank you for clarifying that.

25 PRESIDENT CARTER: Any other questions for Mr.

1 Kerr?

2 Does the applicant have anything to add to this?

3 MR. BASSETT: John Bassett with SAFCA.

4 No, Mr. Kerr went through the process pretty
5 well. And we would request that the Board send the letter
6 for both the cross canal and the Sacramento River
7 improvements that are before you on the earlier agenda
8 items.

9 PRESIDENT CARTER: Okay. Any members of the
10 public, the audience wish to comment on this item?

11 Any further discussion by the Board?

12 BOARD MEMBER BURROUGHS: Is there a staff report?

13 PRESIDENT CARTER: That was the staff report.

14 Mr. Kerr is our staff.

15 BOARD MEMBER BURROUGHS: That would be it?

16 PRESIDENT CARTER: Yes.

17 BOARD MEMBER BURROUGHS: Then will you entertain
18 a motion?

19 PRESIDENT CARTER: Absolutely.

20 BOARD MEMBER BURROUGHS: I so move that we take
21 Mr. Kerr's motion and send the letter as stated.

22 SECRETARY DOHERTY: I'd second that.

23 PRESIDENT CARTER: Okay. We have a motion to
24 send a letter to the Corps requesting 104 credit for the
25 Natomas Cross Canal and east levee of the Sacramento River

1 and a second.

2 Any discussion?

3 We do have a second.

4 BOARD MEMBER SUAREZ: I have a request actually,
5 if they can -- if you can circulate your PowerPoint
6 presentation to the Board.

7 MR. KERR: You know, I apologize for not bringing
8 that up earlier. I did drop off copies of my
9 presentation. Hopefully I brought enough copies.

10 PRESIDENT CARTER: There were some distributed.
11 At least I got a copy.

12 MR. KERR: The packet is --

13 PRESIDENT CARTER: It was passed out today.

14 BOARD MEMBER SUAREZ: Okay. Well, never mind
15 then. I'll dig through this.

16 MR. KERR: I can also Email it to you if you
17 want.

18 PRESIDENT CARTER: It's in that thick packet
19 there

20 (Laughter.)

21 PRESIDENT CARTER: I managed to find this one.

22 Okay. Any further discussion?

23 We have a motion.

24 Does everybody understand the motion?

25 All those in favor indicate by saying aye.

1 (Ayes.)

2 PRESIDENT CARTER: And opposed?

3 The motion carries.

4 Thank you very much, Mr. Kerr.

5 MR. KERR: Thank you.

6 At this time I'd like to try and wrap things up.

7 We have Item 12, Board Comments and Task Leader
8 Reports.

9 Any comments or reports from the Board?

10 Just --

11 BOARD MEMBER BURROUGHS: My only report would be
12 that I was advised not to attend any meetings until we
13 have clarification on the ex parte.

14 PRESIDENT CARTER: Okay. I can report that the
15 levee roundtable did meet. Neither Rose Marie nor I
16 attended. General Manager Punia attended on behalf of the
17 Central Valley Flood Protection Board. I think given the
18 guidance we've gotten today, we can plan on attending
19 future meetings.

20 Vice-President Hodgkins and I met with DWR
21 executive earlier this week regarding administrative
22 issues and transition issues, discussed the MOA. We're
23 still seeking some information from DWR with regard to
24 resources and administrative support that they
25 historically and are currently providing the Board as part

1 of the process of doing our own internal assessment.

2 Which our timeline for completing that is March 1. A
3 pretty aggressive timeline.

4 So that's the status on the long-term MOA
5 discussions and so forth.

6 Any other issues?

7 Okay. We'll move onto the report of the General
8 Manager.

9 EXECUTIVE OFFICER PUNIA: I'll be real brief. If
10 you need more details, I'll be glad to provide you each of
11 the topics I'm going to quickly cover.

12 In the Governor's budget release for Fiscal Year
13 '08-'09 we have \$2 million augmentation for the Central
14 Valley Flood Protection Board. And that's a placeholder.
15 And we are working on a budget change proposal identifying
16 what that money will be used for.

17 And as President Ben mentioned, the roundtable --
18 levee roundtable meeting was held on December 4th. I
19 attended that meeting. The quick synopsis of that meeting
20 is DWR will come up with a plan in middle of February that
21 how we are going to manage the vegetation on levees. And
22 that plan will be presented to the U.S. Army Corps of
23 Engineers and to us and other participants of the
24 roundtable. And then we will meet again in March 14th so
25 that that plan can be finalized.

1 And in the meantime the U.S. Army Corps of
2 Engineers has also issued a letter -- a draft letter,
3 which is being circulated, in which they are indicating
4 that vegetation encroachment deficiencies may be granted
5 additional time to correct based upon these roundtable
6 discussions. But they are -- their letter will state that
7 if DWR will come up with a plan acceptable to the U.S.
8 Army Corps of Engineers, they will extend this time to
9 correct the vegetation deficiency. But they are going to
10 stick with their policy previously defined, no vegetation
11 on the levee.

12 And they are also further stating that they will
13 still continue to rate those areas which are not meeting
14 the Corps standard as unacceptable. But they will --
15 those areas will stay active in their PL 84-99 process.
16 So their philosophy is that the rating will be
17 unacceptable if they're not meeting the standard. But
18 until we are discussing this issue, they will not make
19 them inactive in PL 84-99 process.

20 So I think that the credit goes to Board Member
21 Rose Marie and Ben Carter for organizing this levee
22 roundtable and getting this extension from the U.S. Army
23 Corps of Engineers.

24 PRESIDENT CARTER: Boy, I ought to not attend
25 meetings more often then.

1 (Laughter.)

2 EXECUTIVE OFFICER PUNIA: Okay. As previously
3 mentioned briefly, Folsom Dam modification project
4 dedication ceremony, several Board members and I attended
5 on behalf of our Board that ceremony held recently. And
6 we were requested to brief a guest from Japan, to brief
7 them on our activities that how we manage the flood
8 control project and how we work with our local partners
9 and the U.S. Army Corps of Engineers in developing future
10 projects.

11 Dan Fua from our staff spent half a day with the
12 guest from Japan. He's a scholar visiting U.S. Army Corps
13 of Engineers to learn how we manage floodplains and
14 develop flood control projects.

15 Dan, do you have anything to add on this?

16 SUPERVISING ENGINEER FUA: No.

17 EXECUTIVE OFFICER PUNIA: There was a briefing
18 held at the Department of Water Resources regarding
19 General Galloway's report recently issued, California
20 Challenge - Flooding in the Center Valley. I circulated
21 you a copy of the PowerPoints he used. And I will be
22 sending you a copy of his report shortly.

23 The quick synopsis, as George mentioned in his
24 report, is that General Galloway's recommending that the
25 urban areas should have at least the level of protection

1 to the standard project flood, that most locations it will
2 be more than 200-year level of protection we are proposing
3 for the urban areas. So he had several recommendations.
4 I think it's a -- basically he's confirming what we were
5 saying internally, so it's now coming from outside
6 independent evaluation, and there are good
7 recommendations. And I think at some stage we may ask the
8 DWR in some fashion that the Board is made more familiar
9 with this report.

10 SECRETARY DOHERTY: You will be giving us,
11 because we can't download that on our computers.

12 EXECUTIVE OFFICER PUNIA: PowerPoints -- copies
13 of the PowerPoints were handed over today in your package.
14 They should be in your package

15 Jill, maybe --

16 STAFF ASSISTANT PHINNEY: They were handouts.
17 You know, I've been distributing things. And that's one
18 of the things I distributed somewhere in the room.

19 EXECUTIVE OFFICER PUNIA: Yeah. And I appreciate
20 George Qualley for sharing the copies of the PowerPoints.
21 If not, we'll make a copy and make sure you have it. They
22 were -- I will give you a copy. And we will print
23 additional copies of the report and make a copy available
24 to all the Board members shortly.

25 BOARD MEMBER RIE: Jay, what was the purpose of

1 the report? What is DWR going to do with the information?

2 EXECUTIVE OFFICER PUNIA: I think it was an
3 independent assessment from an outsider. That we are
4 saying our levees are deficient, that we need to do
5 evaluation and before we start spending this big
6 proposition funding. So they wanted an independent
7 evaluation from outside consultant or a knowledgeable
8 person. So that task order was issued to General
9 Galloway. And that's the way I understood the purpose.

10 VICE-PRESIDENT HODGKINS: Didn't this come out at
11 a levee conference that was held last year? I mean there
12 was an announcement made at that conference that DWR was
13 going to appoint a task force of outside experts to
14 produce this kind of a report. Isn't this the result of
15 that?

16 SENIOR ENGINEER BUTLER: Yes.

17 VICE-PRESIDENT HODGKINS: Yes. Okay.

18 MR. QUALLEY: Yeah, back in July a group was
19 commissioned --

20 BOARD MEMBER RIE: So this is just confirmation
21 that we need to increase the level of protection in the
22 urban areas, is that the conclusion?

23 EXECUTIVE OFFICER PUNIA: There are other
24 recommendations. I haven't had the chance to digest the
25 report. Maybe in the next report I will -- he has various

1 recommendations that how we -- what actions we need to
2 take as a state to make it more effective use of our
3 funding.

4 PRESIDENT CARTER: Would it be possible to ask
5 General Galloway to come to the Board and make the
6 presentation at a future date?

7 MR. QUALLEY: We could try to arrange that. He
8 was actually in town this week. But, yeah, we can keep
9 that in mind and try to work that out.

10 PRESIDENT CARTER: Okay.

11 EXECUTIVE OFFICER PUNIA: 408 Task Force. The
12 next meeting of the 408 Task Force has been scheduled for
13 this coming Tuesday, 22nd. I think based upon the
14 discussion today, Board members Butch Hodgkins and Teri
15 Rie and Eric and I will participate in this task force.

16 Our status of the new hires. We have hired a new
17 administrative assistant, Geoff Shumway. My goal was to
18 have him here today so that I can introduce. But his
19 paperwork is still being processed by the Personnel
20 Office. So tentatively he will be starting his job next
21 week. But I haven't heard back from the Personnel Office
22 yet.

23 PRESIDENT CARTER: Hasn't this been in process
24 for three months?

25 What is the holdup with the paperwork?

1 EXECUTIVE OFFICER PUNIA: I think the Department
2 of Water Resources Personnel Office, that they process our
3 paper, they are swamped. Because there was a concern that
4 there may be a freeze imposed, so each and every manager
5 in DWR is trying to hire staff and they are swamped. And
6 they're not even returning my phone calls or Emails. But
7 I will keep pushing it so that we have our new employee as
8 soon as possible.

9 PRESIDENT CARTER: So in the meantime we've got
10 somebody hired but he can't work until the paperwork's
11 processed?

12 EXECUTIVE OFFICER PUNIA: That's correct. He's
13 eager to work and we have a lot of work and want him to be
14 working right away, but the paperwork is holding the start
15 date.

16 SECRETARY DOHERTY: Can you go into their office
17 and stand there and say, "I want this done now"?

18 EXECUTIVE OFFICER PUNIA: Lorraine and I -- I
19 haven't done that. Maybe next staff maybe. I'm calling
20 them every day and sending them Emails every day. Maybe
21 the next step is I may have to visit them personally in
22 the office to get this done.

23 BOARD MEMBER RIE: And, Jay?

24 EXECUTIVE OFFICER PUNIA: Yes.

25 BOARD MEMBER RIE: Is there a hiring freeze? Or

1 is this just idol threats?

2 EXECUTIVE OFFICER PUNIA: I think maybe -- Dennis
3 may have more up to date. But there was rumors that a
4 hiring freeze may be imposed. But so far we haven't heard
5 anything.

6 George, do you have anything, latest information
7 on this?

8 MR. QUALLEY: I have not heard anything.

9 EXECUTIVE OFFICER PUNIA: But that push -- the
10 hiring process, I think all the managers are, including
11 our partners in flood management, they're trying to
12 expedite their hiring processes.

13 I think that concludes my report. If you have
14 any other questions on these topics or any other, I would
15 be glad to answer.

16 PRESIDENT CARTER: Any questions for Mr. Punia?

17 BOARD MEMBER BURROUGHS: I have one question on
18 the draft letter that's being circulated.

19 Are we helping with that circulation, or is that
20 coming?

21 EXECUTIVE OFFICER PUNIA: The Corps sent us that
22 letter. Let's see. They gave us a couple -- just one or
23 two days to review it and provide them comments. So I
24 reviewed it and provided my comments to the U.S. Army
25 Corps of Engineers. Then they will finalize this letter

1 soon. And we will distribute to all -- to our roundtable
2 and to the local levee maintaining agencies. I think
3 there was a request from the Board that we should send a
4 letter notification to the local levee maintaining agency.
5 Once we have the letter -- proposed letter in hand, then
6 we can inform the local levee maintaining agency based
7 upon the Corps' letter.

8 BOARD MEMBER BURROUGHS: Okay. Thank you.

9 PRESIDENT CARTER: Any other questions for Mr.
10 Punia?

11 Okay. Moving on. Future Agenda.

12 We do not have a draft in a Board packet this
13 month for future agenda. There obviously are standard
14 items that appear on the first page that we will continue.

15 What is on our plate at this point, Mr. Punia?

16 EXECUTIVE OFFICER PUNIA: At a previous meeting
17 Board Member John Brown asked a briefing -- or an update
18 on the Folsom project. And George is thinking that he can
19 bring his staff to brief -- in February, George?

20 MR. QUALLEY: Yes, we do plan to do that briefing
21 in February. I was watching Email traffic today, and that
22 will be added to your -- or we're requesting to add that
23 to your addenda for February.

24 EXECUTIVE OFFICER PUNIA: Yeah. I haven't done
25 my homework on future items. I apologize for that. I

1 think we -- I'll work with our agenda committee and come
2 up with a topic.

3 The West Sacramento -- there's a project which
4 they are pushing to bring it to the Board. That may be on
5 the agenda. And then I will talk to Stein and see if
6 SAFCA is -- any of their projects need to be on the
7 agenda.

8 So those are the main topics I can think of at
9 this time.

10 Eric and Dan --

11 SUPERVISING ENGINEER FUA: We may have a couple
12 of permits to present to the Board next month. Hopefully
13 these would be noncontroversial permits. So hopefully
14 they'll be in the consent items.

15 PRESIDENT CARTER: What permits?

16 SUPERVISING ENGINEER FUA: We have -- one is DWR,
17 the rock project in the Delta. There's a couple of
18 permits there. And then there's also DWR's project to
19 extend their geotechnical investigations and the project
20 levees.

21 PRESIDENT CARTER: Their project is where they
22 want to stockpile the rock?

23 SUPERVISING ENGINEER FUA: Right.

24 PRESIDENT CARTER: Okay.

25 BOARD MEMBER SUAREZ: Mr. President?

1 PRESIDENT CARTER: Yes.

2 BOARD MEMBER SUAREZ: I have a couple items if
3 now is the right time?

4 PRESIDENT CARTER: Absolutely. Put them on the
5 list.

6 BOARD MEMBER SUAREZ: Okay. Maybe next month or
7 at least by March if we can get a legislative update from
8 Mr. Casey --

9 PRESIDENT CARTER: -- Shimkey.

10 BOARD MEMBER SUAREZ: -- Shimkey. So he actually
11 was very kind last year right about this time, gave us an
12 update on the type of legislative matters that were
13 showing up.

14 And the second item is a proposal that I would
15 like the Board to consider. And maybe next month would be
16 a good time to introduce it. Similar to other boards
17 under the California Environmental Protection Agency, have
18 adopted an applicant's bill of rights. And I think since
19 we're getting -- reorganizing a new Board and this might
20 be a good opportunity for us to consider to adopting a
21 similar type of language so our applicants can get some
22 level of certainty regarding what not only their
23 responsibilities are but also what their rights are under
24 our process.

25 BOARD MEMBER BURROUGHS: Mr. President?

1 SECRETARY DOHERTY: Ms. Cahill also said -- Oh,
2 I'm sorry.

3 BOARD MEMBER BURROUGHS: Go ahead.

4 Also, I don't know if it would be part of our
5 next Board meeting, but I would like to propose that we
6 set a workshop day to be able to work on our policy, our
7 procedure and our strategic plan; and also to add to the
8 agenda that we have it on there, our transition. I'm sure
9 there's many issues that will be coming up for transition.

10 BOARD MEMBER BROWN: Mr. Chairman?

11 PRESIDENT CARTER: Mr. Brown.

12 BOARD MEMBER BROWN: I was about to suggest the
13 same thing, with the caveat that I'd like to see Jay or
14 staff put together items that they think might be
15 productive in giving them guidance on that workshop, and
16 then go ahead and schedule a workshop. I'd like to see a
17 draft of that first. And then we could have input on the
18 issues that we think are relevant at the time, a
19 non-voting workshop meeting.

20 PRESIDENT CARTER: If we have a workshop on the
21 Board's Strategic Plan and whatnot, I strongly recommend
22 that we get some outside help, for a couple reasons. One,
23 that the staff is pretty swamped in terms of what they're
24 doing now. They're -- and I think that we're going to
25 benefit greatly from some expertise that could be brought

1 in from the outside.

2 BOARD MEMBER BROWN: Yeah, a clarification of my
3 suggestion. I did not mean for him to -- I just want to
4 see what the issues are, not to spend a lot of time trying
5 to resolve them. But just put them down and where we
6 could review them and either concur or add to. And then
7 set that up as the agenda.

8 BOARD MEMBER BURROUGHS: Since we don't have in
9 place our own hiring system yet, what do you propose in
10 regards to hiring a consultant?

11 PRESIDENT CARTER: What we'd have to do is either
12 piggyback on to a contract that exists within the state,
13 preferably within DWR. So use a contractor that they're
14 already using. Or if we have to initiate the contracting
15 process to hire some outside help.

16 BOARD MEMBER BURROUGHS: Great.

17 SECRETARY DOHERTY: You also said that -- Ms.
18 Cahill said that you would address the terms of Board
19 members at the next meeting. So that should be on the
20 agenda too.

21 No?

22 PRESIDENT CARTER: Let's put that on the list.

23 LEGAL COUNSEL CAHILL: It doesn't have to be next
24 meeting, but --

25 SECRETARY DOHERTY: Oh, okay.

1 PRESIDENT CARTER: Okay.

2 BOARD MEMBER RIE: I have an item.

3 I think we should have a standard agenda item on
4 every agenda for reporting ex parte communications for
5 items not on the agenda. And that should probably be
6 before public comments, so if the public has any questions
7 about our communications relating to a matter not on the
8 agenda, they can in turn comment on our ex parte
9 communications.

10 PRESIDENT CARTER: Okay. Any other suggestions?

11 MR. SHAPIRO: Mr. President?

12 PRESIDENT CARTER: That will take care of the
13 next three months.

14 (Laughter.)

15 MR. SHAPIRO: Mr. President, brief public
16 comment?

17 PRESIDENT CARTER: Absolutely.

18 MR. SHAPIRO: Thank you. Scott Shapiro for
19 various flood interests.

20 As I see your list growing for next month, I just
21 wanted to raise my voice in favor of the West Sacramento
22 item that General Manager Punia mentioned. As some of you
23 know, I provide services as well out of West Sacramento.
24 And West Sacramento has requested a 408 letter of this
25 Board next month. Your staff has been doing a great job

1 trying to get it in position to come to you. That would
2 allow us to do construction on one site this year. It's a
3 site that we feel is important to proceed this year.

4 So I believe it would be relatively
5 noncontroversial. It is only a 408 letter. It is not a
6 permit application. I do want to encourage you to leave
7 it on the agenda in light of how full it's getting.

8 Thank you.

9 PRESIDENT CARTER: Thank you.

10 Any other suggestions?

11 Excellent.

12 Okay. Well, we've got a lot to work with.

13 Where are we?

14 Are we adjourning?

15 EXECUTIVE OFFICER PUNIA: Yes.

16 PRESIDENT CARTER: We're adjourning.

17 Thank you very much.

18 (Thereupon the Central Valley Flood
19 Protection Board open session meeting
20 adjourned at 5:58 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing Central Valley Flood Protection Board open
7 session meeting was reported in shorthand by me, James F.
8 Peters, a Certified Shorthand Reporter of the State of
9 California, and thereafter transcribed into typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said meeting nor in any
12 way interested in the outcome of said meeting.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 28th day of January, 2008.

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